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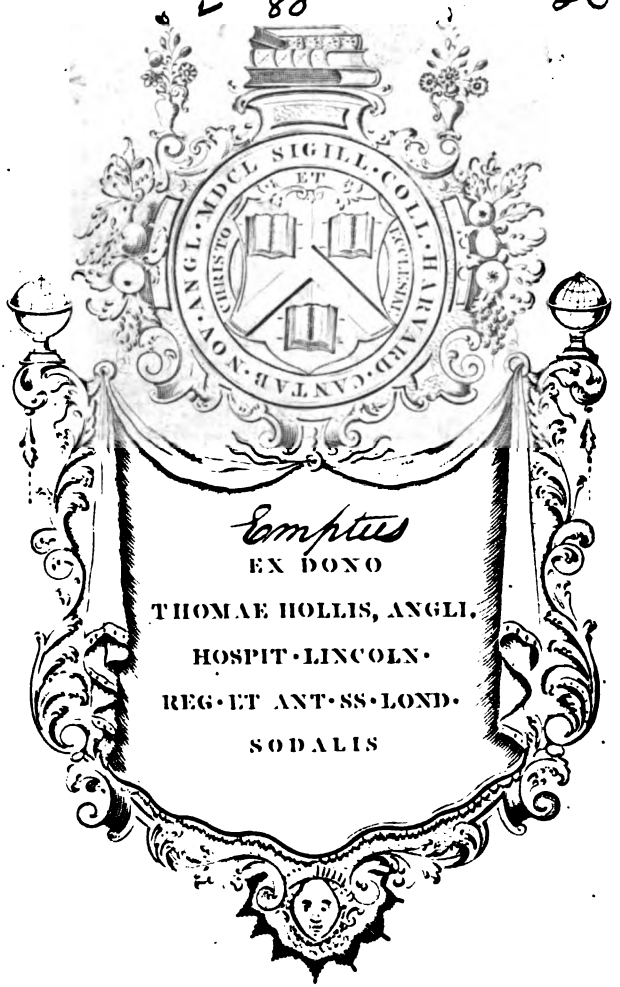

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THE

Parliamentary History

OF

ENGLAND,

FROM

THE EARLIEST PERIOD

TO

THE YEAR

1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED,

"THE PARLIAMENTARY DEBATES."

VOL. XXVIII.

COMPRISING THE PERIOD

FROM THE EIGHTH OF MAY

1789,

TO THE FIFTEENTH OF MARCH

1791.

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1783.	Archbishop of Canterbury.....	John Moore.
1776.	- - - - - - - - York	William Markham.

Bishops.

1789.	Bishop of St. Asaph	Samuel Halifax.
1783.	- - - - - Bangor.....	John Warren.
1774.	- - - - - Bath and Wells	Charles Moss.
1785.	- - - - - Bristol	Christopher Wilson.
1754.	- - - - - Chichester	Sir William Ashburnham, bart.
1781.	- - - - - Coventry and Litchfield	Hon. James Cornwallis.
1788.	- - - - - St. David's	Samuel Horsley.
1781.	- - - - - Ely	Hon. James Yorke.
1778.	- - - - - Exeter.....	John Ross.
1789.	- - - - - Gloucester	Richard Beadon.
1788.	- - - - - Hereford.....	John Butler.
1782.	- - - - - Landaff	Richard Watson.
1787.	- - - - - Lincoln	George Prettyman Tomline.
1787.	- - - - - London	Bealby Porteus.
1790.	- - - - - Norwich	George Horne.
1788.	- - - - - Oxford.....	Edward Smallwell.
1769.	- - - - - Peterborough	John Hinchcliffe.

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Bishops continued.]

1774. - - - - - Rochester ..... John Thomas.
1782. - - - - - Salisbury ..... Hon. Shute Barrington.
1781. - - - - - Winchester ..... Brownlow North.
1781. - - - - - Worcester ..... Richard Hurd.
1787. - - - - - Carlisle ..... John Douglas.
1787. - - - - - Chester ..... William Cleaver.
1787. - - - - - Durham ..... Thomas Thurlow.

LORD HIGH CHANCELLOR.

1783. Edward, Lord Thurlow.

LORD PRESIDENT OF THE COUNCIL.

1784. Charles, Lord Camden.

LORD PRIVY SEAL.

1784. Earl Gower.

PRINCIPAL SECRETARIES OF STATE.

1783. Dec. 23. Thomas, Lord Sydney.
Francis, Marquis of Carmarthen.
1789. June William Wyndham Grenville, esq.; vice Lord Sydney.

SPEAKER OF THE HOUSE OF COMMONS.

1789. Jan. 5. William Wyndham Grenville, esq.
May 8. Henry Addington, esq.

COMMISSIONERS FOR EXECUTING THE OFFICE OF LORD HIGH TREASURER OF ENGLAND.

1789. April 8. Right Hon. William Pitt; and Chancellor of the Exchequer.
Hon. Edward James Elliot.
Richard, Earl of Mornington.
J. Jeffries, viscount Bayham.
Henry, Lord Apsley.

MASTER OF THE ROLLS.

1788. June 7. Richard Pepper Arden, esq.; afterwards Lord Alvanley.

ATTORNEY GENERAL.

1788. June 28. Sir Archibald Macdonald, knt.

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SOLICITOR GENERAL.

1788. June 28. Sir John Scott, afterwards Lord Eldon.

LORD ADVOCATE OF SCOTLAND.

1789. Robert Dundas, esq.

SECRETARY AT WAR.

1783. Dec. Sir George Yonge, bart.

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29 GEORGE THE THIRD, A. D. 1789.

SIXTH SESSION OF THE SIXTEENTH PARLIAMENT OF GREAT BRITAIN.

[*Continued from Vol. XXVII.*]

DEBATE on Mr. Beaufoy's Motion for the Repeal of the Test and Corporation Acts.] May 8, 1789. The order of the day being read,

Mr. Beaufoy rose. He opened his speech with an account of the reasons which had induced the dissenters to renew their application to parliament; and with a few remarks on the temperate conduct which had distinguished their proceedings. He observed, that their confidence in the general disposition of the House to do justice to the injured, and to give relief to the oppressed, had suffered no alteration: that they were sensible how difficult it was, even for the best and wisest men, to relinquish, on the evidence of a single debate, the prejudices which misinformation had led them to adopt: that they could not but recollect how often the legislature had granted the very requests which causeless apprehensions had before induced them to refuse; and that they could not but hope that as their merit, as citizens, was acknowledged, they might venture, without offence, a second time to solicit from the natural guardians of all descriptions of the people, a candid and impartial hearing. He reminded the House, that in their former application the dissenters, far from wishing by a multitude of petitions to display their numbers and political consequence in the state, had placed their whole reliance on a plea to which numbers gave no additional strength; for they knew, that to the ear of a British parliament, the voice of justice ascends with as much effect from the few as from the many; from the feeble as from the strong; that the same temper had marked their subsequent conduct; for however sensibly they felt their hardships of being subjected, though guiltless of offence, to such disabilities, and to such dishonour, as few offences can deserve, yet they had not indulged the language of complaint, nor had they sought the aid of political alliances, or endeavoured to avail themselves of party divisions: much more elevated had been their line of conduct: for they had patiently waited the arrival of a period in which the wisdom of a complete toleration should be generally acknowledged, and in which the experience of other nations should have proved, that such a toleration would strengthen the interest of the established church, and so entirely destroy the bitterness of religious variance, that the state would afterwards be as little affected by that variance, as by a difference of opinion in natural philosophy, or any other speculative science.

Mr. Beaufoy then proceeded to observe, that while he described with satisfaction the temperate conduct of the dissenters, he was perfectly aware that among them, as in all large societies, intemperate individuals might be found; but that to impute to dissenters the unauthorized language, and unsanctioned asperities of such men, would be as absurd as to expect, that in a large multitude no man of a peculiar cast of mind who measured his opinions by a standard of his own, was ever to be found. That it would be as unjust as to charge on the church of England, those principles of despotism, those maxims of

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civil thraldom, which particular clergymen have sometimes inculcated from the pulpit. Who, said he, does not know, that the settled maxims and fundamental axioms of the British constitution have been condemned by a higher authority in the church of England, than any which the dissenters own? Yet what man is either so weak or so wicked, as therefore to declare, that the church of England is hostile to the laws and constitution of her country? It is only by the tenor of their course, and general spirit of their conduct, that large societies can ever be justly tried, and measured by that standard, whether as faithful and affectionate supporters of his Majesty's illustrious house; or as citizens zealously attached to the constitution; or as Protestants who, in doubtful and difficult emergencies, have proved themselves friends to the established church, the dissenters will be found on a level with the most distinguished of their fellow-subjects.

Mr. Beaufoy then expressed the satisfaction he felt, that in consequence of the last debate on the subject, many of the points on which he had then thought it his duty to enlarge, might now be taken for granted as known and admitted truths. He should think it superfluous to prove, that the grievance from which the dissenters solicited relief, was a civil, and not a religious oppression. That they complained not of ecclesiastical hardships, but of being injured as citizens, of being wronged as Englishmen; and that all they asked was a restoration of civil rights, and permission to give proofs to the world, that no men regard danger less, or value their country more. He said he should think it equally superfluous to show, that the exclusion of the dissenters from civil and military offices, was not the reason for which the test act was originally passed; for that all who had consulted the journals, or even the common histories on the subject must know, that the assembling of an army under Catholic officers, for the purpose of overawing the proceedings of parliament, and the stationing that army within an hour's march of the capital, was the circumstance which gave rise to the statute.

He observed, that the sacramental clause in the corporation act was intended in like manner against the Catholics alone; for as the other provisions of the statute, by dispossessing the enemies of the court, had established the influence of the Crown in all the corporations of the kingdom, the parliament was naturally apprehensive that in the next reign, under a Catholic king, all corporation offices would be filled with Catholics. That it was obvious, that the clause which enacted the sacramental test, could not be intended against the dissenters, as at that time there existed no such description of people; for as the act of uniformity which produced the separation, was not passed, till a subsequent period, those who were afterwards called dissenters, were at that time within the inclosure of the church, and constantly participated in her sacraments. The provision must therefore have been intended as a guard against the Catholics, to whom it effectually applied, and not as a guard against those who were afterwards called dissenters, on whom at that period it could not operate. But though the exclusion of the Catholics from civil and military employments was the object for which the test and corporation acts were passed, yet the continuance of these acts, with that view, was altogether useless; for if the exclusion of the Catholics from the offices of executive government was still thought expedient for the state, that exclusion might be effectually obtained by the same oath of supremacy, and by the same declaration against the leading article of their faith which debarred them from a seat in either House of parliament. The last point which he mentioned as too well known to stand in need of discussion was, the sufficiency of the oath of abjuration to exclude from civil and military employments all persons of a different faith from the Christian, as every man who takes that oath, swears that he takes it on the faith of a Christian.

After these preliminary remarks, Mr. Beaufoy proceeded to a specific statement of the dissenters case, which involved in it, he said, two different questions. 1st. Have the dissenters a right in common, with their fellow-subjects, to the usual privileges and general benefits of citizenship? 2dly. If they have that right, what benefit does their exclusion from the enjoyment of it produce to the church or state? If the first of these questions were proposed to the consideration of a foreigner, he would naturally ask, What are these dissenters, that their right to the common privileges of citizens should be disputed? Are they slaves to the rest of the community, or are they offenders who have forfeited their privileges by their crimes? or

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are they persons who from their religious tenets are unable, or from disaffection to the state are unwilling to give the necessary pledges of civil obedience? Not as slaves to the rest of the community, do we deny them the usual privileges of citizens, for, thanks to the spirit of our ancestors, there is in Great Britain no such description of men. Not as criminals do we exclude them from the enjoyment of their rights, for of the millions of subjects who inhabit the kingdom, there are none of more untainted integrity or of more unquestionable honour. Neither as persons who are unable or unwilling to give a sufficient pledge of their obedience to the state do we reject them; for such is the satisfaction we feel in the pledges they give of their attachment; such is our reliance upon the oaths which they are at all times willing to take, that without hesitation or reserve we admit them to the highest of all trusts, that of legislative power; but the ground on which we do refuse them the rights and privileges which their fellow-citizens enjoy is, their presuming to believe, that in those concerns of religion which relate not to actions but opinions, it is every man's duty, as it is every man's right, to follow the dictates of his own understanding. To be concluded by the evidence of another man's judgment, in opposition to the evidence of their own, they conceive to be as impossible as to credit the testimony of another man's sight in opposition to the evidence of their own eyes: 'tis this adherence to a necessary conclusion from self-evident premises: 'tis this attachment to an unavoidable inference from axioms, which no man living disputes: 'tis this uniform regard for the right of private judgment in matters of religion, which in contemplation of the law outweighs all sense of their virtues as men, all esteem of their patriotism as citizens, all respect for their loyalty as subjects. It is this which has induced us to impose on them civil disabilities, without the commission of any offence. It is this which has urged us to inflict on them punishments without the imputation of guilt; it is this which has impelled us to subject them, as far as the law can subject them, to the same disabilities and the same dishonour with those who have been publicly convicted of wilful, corrupt, and deliberate perjury. Because you will not consent to be hypocrite, therefore, say the laws, you shall be treated as if you were perjured. No office under the Crown, though your sovereign may invite you to his service; no commission in the army, though the enemy may be marching to the capital; no share in the management of any of the commercial companies of the kingdom, though your whole fortunes may be vested in their stocks, shall be yours: from the direction of the bank of England, from the direction of the India company, from that of the Russia, the Turkish, and South Sea companies you are entirely debarred; for, if you should accept of any share in the management of these companies, or of any office under the Crown, or of any military employment, you are within the penalties of the statutes. In the first place, you forfeit to the informer the sum of 500*l.* if you cannot pay that sum without delay, the penalty is imprisonment: if you cannot pay it all, as may be the case with many a brave officer, who has offended against the law by fighting the battles of his country, the penalty is imprisonment for life. In the next place, you are incapable of sueing for any debt. Does any one owe you money? Have you entrusted him with your whole fortune? It is in his power to cancel the debt, by annulling your means of recovering it; and for this act of dishonesty, of consummate fraud, of treachery in the extreme, the parliament assigns him a reward of 500*l.* to be bequeathed from the wreck of your fortune. In the next place, the law denies you its protection: for his wrongs, his insults, his injuries, however atrocious, you shall have no redress; to the complaints of others against you, the ear of the magistrate is open; but to your supplications, to your prayers, to your complaints, it is from this time forward inexorably shut. You are condemned to wretchedness and beggary for life. In the next place, you are incapable of receiving any legacy: the inheritance bequeathed you by your parents you cannot take, your rights as a son are cancelled. in the last place, you are also incapable of being guardian to any child, even to your own. A former penalty annihilated your right as a child, this abrogates your privileges as a parent. Such are the strong coercions by which the dissenters are excluded from the enjoyment, not only of their most valuable privileges as citizens, but of rights which they hold by a higher title and claim by a superior authourity to any which civil governments bestow.

How hard, then, is the situation of a dissenter! If he should disobey the laws which exclude him from civil and military

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employments, and should accept of any office to which the choice of his sovereign, or the confidence of his fellow citizens, may invite him, he is robbed of his fortune, stripped of his inheritance, deprived of his personal security, and bereaved of the privileges which result from the natural relation of a father to his child! If, on the other hand, he should acquiesce in the law, and shall refrain from employments in the army, in the state, or in the commercial companies of the kingdom, he submits to the same disability, and acquiesces in the same degradation, which belongs to those who are convicted of wilful, corrupt, and deliberate perjury; he is loaded with the same punishments which are inflicted on those who have trampled on the best principles of religion, broken down the strongest fences of civil government, and violated the most solemn obligations of human society. Such disabilities, so imposed, are naked and undissembled wrongs; and wrongs inflicted for religious opinions nearly constitute persecution; for what is persecution but injuries inflicted for a religious belief? it is its genuine definition, its just and accurate description. What, then, are the consequences which follow from these melancholy facts? Injurious and perhaps unexpected as the conclusion is, we are compelled, by the evidence of truths which we cannot dispute, to acknowledge that the pretended toleration of the dissenters is a real persecution—a persecution which deprives them of a part of their civil rights, and which, with the same justice and on the same plea, might equally deprive them of the rest—a persecution which denies them the management of their property, and which with the same justice, and on the same plea, might equally take from them the property itself—a persecution which deprives them of the right of defending their liberties and lives, with the same justice, and on precisely the same plea, might equally deprive them both of liberty and life. If one degree of persecution may be justified, another degree of it, under different circumstances, may be justified also. Let but the principle be once admitted, and the inquisition of Portugal and Spain cease to be objects either of ridicule or abhorrence.

Mr. Beaufoy then proceeded to the second of the two questions which he had stated, viz. What advantage to the church or state results from refusing to the dissenters the common privileges of citizens? Those, he observed, who contend that the test and corporation laws are essential to the safety of the church of England, must mean that these laws are a protection to the tythes and other revenues which belong to her establishment, and to the offices and honours, which constitute her hierarchy. That the question consequently is, would the dissenters, if the test and corporation acts were repealed, have either the disposition or the power to deprive the church of her revenues or her dignities? That they would not have the disposition, he proved from their conduct in the reign of James 2, when they chose to share her hazards rather than desert her interests — from their present conduct in Ireland, where the church acknowledges that she owes her safety to their attachment. He also supported this part of his argument by showing that the good will of the dissenters towards the revenues of the church is ensured (and if the statutes in question were repealed would still be ensured) by particular circumstances. These circumstances were, that the dissenters, generally speaking (for he said there were undoubtedly many exceptions), belonged not to the landed interest of the kingdom, which bears the principal burthen of the tythes, but to the commercial interest, on which the weight is comparatively light. That the voluntary subscriptions of the dissenters for the maintenance of their own clergy, were too light to be felt as a burthen, and in their destination and use were constantly regarded as a privilege. That the several denominations of the dissenters differed as much from each other as from the established church, and were so far from being hostile to its ministers, that he believed the clergy themselves would acknowledge, that of the voluntary contributions which they received from their parishioners, those of the dissenters were in general the highest and most liberal.

From these remarks on the dispositions of the dissenters he passed on to the consideration of the additional power that would be given them by the repeal of the statutes in question. He said that to such classes of the dissenters as are not able to give a sufficient pledge of their civil obedience, it would be no acquisition. That the Quakers, who undoubtedly were enemies from principle to the revenues of the church, would still be excluded from the offices of executive government, by their refusal

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to take the oath of allianee. That the Catholics also would still be excluded, by their refusal to take the oath of supremacy. That he did not mention the Methodists, for that unless the utmost ardour of devotion be the strongest attachment to the doctrines of the church; unless that could be called differing from the church, he knew not on what ground they could be considered as dissenters. That the only persons who could derive an advantage from the proposed refusal would be the Presbyterians, the Independents, and the Baptists. That this advantage would consist of nothing more than the liberty to serve the sovereign when he should call upon them for the aid of their integrity and talents; the liberty to serve their fellow subjects when they should elect them to offices of trust: and the liberty of hazarding their lives in defence of their native land. What possible injury, he asked, could result to the church from the restoration of rights in themselves so clear and undisputed?

He observed, that the safety of the church depends not on those who fill the subordinate offices of executive government, but in the legislature alone; and that in the legislature, no possible alteration could be made by the repeal; for neither the Lords nor the Commons are required to take the sacramental test, nor are those by whom the Commons are elected, in that way to qualify themselves for voting. One only objection, he said, had reached him, and that was, that if the dissenters were gratified in their present request, new requisitions of less justice might follow. But, was it possible that the legislature could be so forgetful of its own firmness, as to say to any part of the people—That which you justly ask, we are afraid to grant, lest you should afterwards solicit more than you have a pretence to claim? What individual in private life, of common integrity, and of common fortitude, ever refused the payment of a just debt, lest he should afterwards be asked for money which he does not owe? But what further requisitions could the dissenters make? No grievance would be left, no oppression would remain. The three classes of dissenters would have no bond of union; no common object of pursuit. The dissenting interest would soon dissolve away, when the persecution which gives it strength and compactness is removed, and the established church would acquire of course additional stability and power.

Having shown in this manner, that the repeal of the sacramental statutes would increase rather than diminish the security of the church, he proceeded to consider the effect of the repeal on the interests of the state. What on this subject, were the sentiments of our great deliverer king William 3? What were the sentiments of the first of his Majesty's illustrious house who wore the crown of Great Britain, we fortunately know; for the journals have informed us how much they lamented, that so many of their loyal and affectionate subjects should be excluded from their service. But the language of things is still stronger than that of those illustrious men; for who without indignation can reflect, that so large a proportion of the most deserving citizens are excluded by law, from the privilege of engaging in the defence of their country, their freedom, and their lives? Does the voice of the sovereign in a fearful and perilous season call the dissenters to his service, or does strong impulse of affection for their native land, urge them to oppose their strength to the invading enemy, and to show him that his sword must pass through their breast before it can reach that of their country? Presumptuous men! what shall be your fate? From this time forward, you shall be treated as outcasts from the community. The law shall withhold from you the guards with which it protects the personal security of the subject; even the rights of inheritance shall be taken from you. Do you complain that guiltless of any offence but that of having bled for your country, you are subjected to penalties so severe; it is but the lightest part of your punishment: a higher scourge remains. It is on your feelings as parents, that the laws shall inflict its deepest wound. Tainted in the eyes of your offspring, as unfit to be trusted with the care of their education, or the superintendance of their morals, your natural affection shall be made the instrument of your severest anguish. O most incomparable system of most ingenious cruelty! A considerable part of the best subjects of the kingdom cannot indulge their attachment to their native land, but at the expense of their attachment to their offspring. The passion of the father for his child, is opposed to his passion for his country. The barbarian, of whom we read in the papers on your table, that African tyrant who has carried the science of despotism to a per-

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fection which Nero never knew, even he aspires at nothing more than to destroy the family attachment, and to annihilate the parental feeling. He does not attempt to oppose the attachment of the father to the duty of the citizen; but the British law is founded in deeper cruelty. Its object is to create a war of attachments, and to establish a conflict of passions. It is to make virtue inconsistent with virtue, duty irreconcileable to duty, affection incompatible with affection. Can such laws be consistent with the interests of the state? When the kingdom, a few years since, was assailed by the adherents of another claimant to the crown; when the faith of a large proportion of people was dubious; when the loyalty of many of those who were near the person of the King was thought to be tainted, and terror had palsied even more than corruption had seduced, what was then the conduct of the protestant dissenters of England? To say that of the multitudes which composed that varied society, there was not one man, not a single individual who joined the enemy of his Majesty's House (unexampled as this proof of their loyalty was) is however to speak but the smallest part of their praise. For at the very time when the armies of the state had been repeatedly discomfited; at the very time that those, who reached at his majesty's crown, were in possession of the centre of the kingdom; at the very time when Britain, unable to rely on her native strength, and hourly trembling for her safety, had recourse to foreign aid; at that very time, the dissenters, regardless of the dreadful penalties of the law, and anxious for their country alone, eagerly took arms. And what was the return they received? As soon as the danger was passed by, they were compelled to solicit protection of that general mercy, which was extended to the very rebels against whom they fought; they were obliged to shelter themselves under that act of grace, which was granted to the very traitors, from whose arms they had defended the crown and life of the sovereign. It was thus only that they escaped those dreadful penalties which they had incurred by their loyalty, and which the irritated friends of the rebellion were impatient to bring down upon them. To the disgrace of our statutes to the dishonour of the British name, to the reproach of humanity, these persecuting statutes are still unrepealed. Perhaps I shall be told that, however oppressive in speculation their injustice may be thought, instances of their active oppression have seldom been experienced; for however frequent trespasses upon their enactments are, informations against trespassers have seldom been exhibited. Can such a defence be urged in behalf of the statutes of a British parliament? What is it but to say, that so flagrant is the injustice, so unqualified the oppression, so hostile to every feeling of humanity is the language of those statutes, that the most depraved informer, the most inveterate practiser on the fortunes and lives of his fellow subjects, will not take upon himself the odium of their execution. Rather than accept the enormous bribe by which the legislature invites him to ruin the fortune of innocent and deserving citizens; rather than accept the enormous wealth to which the legislature tempts him, to bring on the best men punishments due only to the worst; rather than cancel that great bond of nature which unites the parent to his offspring; the ruffian, who is in want of bread, resolves at the hazard of his life to seek it on the highway, for the deed to which the legislature would urge him, exceeds the measure of his depravity. Shall we then consider these statutes as harmless, because they are too wicked for execution? Can this be accepted as a sufficient assurance that they will not be made as oppressive in their use as they are ferocious in their intent? 'Tis too frail a reliance; 'tis too infirm a security. If there be persons, and I know there are many, who have borne commissions in the army without the sacramental qualifications; if there be any who have taken a part in the bank of England, the East India company, or any of the other chartered companies of the kingdom; or if there be any in the present or in the late administration who have accepted offices of trust without this legal requisite of the Lord's Supper, let me entreat them to recollect to what terrible penalties they are at this very hour exposed; and if as dissenters, or as members of the church of Scotland, or as persons who for any reason are willing to mix the sacred ordinances of religion with their temporal pursuits, then let me entreat them also to consider, that it is in the power of every man to grapple with their peace; that it is in the power of every man, whom avarice, or animosity, or private revenge may prompt to deeds of

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ill; that it is in the power of every man who has an interest to serve, or a passion to gratify, at once to bring down such ruin on their heads, as would make them objects of compassion to the poorest and meanest of their fellow subjects.

Hitherto I have spoken as an advocate for a numerous description of my fellow subjects, whose moral virtues I esteem, whose patriotism I revere, whose situation, as much injured men has strongly attached me to their cause, but to whose religious persuasion I myself do not belong. Permit me now, for a few moments before I conclude, to speak of interests, in which I have a more immediate and personal concern, the interest of the church of England. From all testimonies, ancient and modern, I have ever understood that the worst practice of which a legislature can be guilty, is, that of employing the laws of a country to degrade and make contemptible the religion of the country. For what man is so little acquainted with the motives of the human heart, or knows so little of the history of nations, as not to be aware that in proportion as he weakens in the people their respect for religion, he corrupts their manners; and in proportion as he corrupts their manners, he renders all laws ineffectual. Now of all the solemn rites and sacred ordinances of her faith there is not one so guarded round with terrors, and over which the avenging sword of the Almighty appears so distinctly to the view, as the ordinance of the Holy Sacrament; "for he who presumes to eat of that bread, and to drink of that cup unworthily, eateth and drinketh his own damnation;" he is guilty of the body and blood of Christ, and provokes the Almighty to plague him with divers diseases and sundry kinds of deaths. That these terrible denunciations may not be lightly and unthinkingly incurred, the minister is directed, when he stands at the holy altar, to prohibit the approach of all persons of abandoned morals, and of profligate life. Such are the injunctions of his religion; but the law tells him, that to those very persons, abandoned and profligate as they are, if by any means they have found their way to the office, he must administer the Sacrament. Is he informed, that the man who demands it, is covered with crimes? A smuggler, perhaps, (for such appointments have been at no time unfrequent) who has obtained his employment as a reward for having betrayed his associates, and for having added private treachery to a long course of public fraud? Is he also told, that this man, new as he is to office, is already supposed to have violated his oath, and that the weight of accumulated perjury is already on his head; still, however, the clergyman must comply with his demand, for perjured as he is, the test act has given him a legal right to the sacrament of the Lord's Supper. Should the minister refuse, the expense of a ruinous suit would devour his scanty means, and consign him for life to a prison; thus circumstanced, the minister has no choice, yet he cannot but know that in taking it unworthily, he eats and drinks his own damnation. Such is the task which the test act has assigned to these very men whose particular duty it is to guard their fellow subjects from perdition, and to guide them in their road to happiness. If in the records of human extravagance, or of human guilt, there can be found a law more presumptuous than this, I will give up the cause. And to what purpose is this debasement of religion? If it be thought requisite that dissenters should be excluded from the common privileges of citizens, why must the sacrament be made the instrument of the wrong; why must the purity of the temple be polluted; why must the sanctity of the altar de defiled; why must the most sacred ordinance of her faith be exposed to such gross, such unnecessary prostitution? If there be persons who are too little attached to the theory of the christian faith to be shocked at the impiety, they must at least be astonished at the folly of such a conduct. For who does not see, that in proportion as we degrade the sanctity of religion, we diminish our own power, and unnerve the arm of the legislature. If the House have faith, as I trust and confidently believe they have, in the religion of their country (and if they have not, God knows, that the worst calamity which can befal Great Britain, would be the revealing this secret to the people!), is it possible, that they can permit an ordinance so entirely abstracted from all temporal pursuits, to be condemned to the drudgery of the meanest of human interests, to be subjected to the polluted steps of the lowest avarice, and of the most despicable ambition; to be dragged into the service of every insignificant stipend, and of every contemptible office, and as if with a view to its utter debasement in the minds of the people, to be made a qualification for inspecting the

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loathsome receptacles of whatever that is hateful to be named is cast forth from the city. The Saviour of the world instituted the Eucharist in commemoration of his death, an event so tremendous, that nature, afflicted, hid herself in darkness; but the British legislature has made it a qualification for gauging beer barrels, and soap-boilers' tubs, for writing custom-house cockets and debentures, and for seizing smuggled tea. The mind is oppressed with ideas so misshapen and monstrous. Sacrilege, hateful as it always is, never before assumed an appearance so hideous and deformed.

Attempts have been sometimes made to justify the legal establishment of this impious profanation, by comparing it with those provisions of our law, which enjoined the sanction of an oath; but the argument equally insults the integrity and understanding of every man to whom it is addressed; for though it be indeed true, that the legislature, by compelling every petty officer of the revenue, and every collector of a turnpike toll, to swear deeply on his admission into office, and has made the crime of perjury more frequent than it ever before was in any age or country, yet how does the frequent commission of this crime against law, justify the establishment of a religious profanation by law? But without commenting on the folly of pleading for a legislative debasement of religion in one way, by showing that the legislature has contributed to its debasement in another, what resemblance does the Sacrament of the Lord's Supper, which is merely a religious institution, bear to the ceremony of an oath, which is an institution entirely political? An oath answers none of the purposes of religion, promotes none of her interests, nor forms any part of her establishment. It belongs to the Jew, the Mahometan, and the Idolater of every description, as much as it belongs to the Christian. But such are the arguments by which the test and corporation acts have ever been defended! To the judgment of the House I shall now leave these persecuting statutes, perfectly convinced that their resolution will be such as the principles of justice, the dictates of religion, and, as connected with these, the interest and honour both of the church and state, shall conspire to recommend.

Mr. Beaufoy then moved, "That the act of the 13th Charles 2, intituled, 'an act for the well-governing and regulating of corporations;' and also the act of Charles 2, intituled, 'an act for preventing dangers which may happen from Popish recusants,'" might be read. And the same being read accordingly, he next moved, "That this House will, immediately, resolve itself into a committee of the whole House, to consider of so much of the said acts as requires persons, before they are admitted into any office or place in corporations, or having accepted any office, civil or military, or any place of trust under the Crown, to receive the Sacrament of the Lord's Supper, according to the rites of the church of England."

Sir *H. Hoghton* seconded the motion, and pointed out the liberality that characterised other countries, in respect to religious opinions. He referred to the conduct of France and Sweden; in the former, a Roman Catholic country, Protestants were admitted into the fleets and armies; and in Sweden, a Protestant country, Catholics found equal readiness of admission into the public service. He mentioned, that no such shackles were placed upon the minds of men either in Ireland or Scotland, but that the moment an Irish officer landed in England, he must resign his commission, or remain liable to all the penalties of the statutes.

Lord *North* said, that the question had so long employed the attention of the people of this country within doors and without, had been the subject of so many debates, and was one on which he had troubled the House so often, that it certainly required some apology from him for troubling the House once more. But could he hear the same arguments again, and sit silent, without being supposed to acquiesce in those opinions? He felt it necessary, therefore, to beg the pardon and the patience of the House while he went through the arguments that day offered, as briefly as possible. As he had in the course of rather a long life, looked on the laws so much reprobated, as the main props and bulwark of the church, and as he had uniformly considered every attempt to sap the foundation of that bulwark, as an attempt destructive to the constitution of the church, which was intimately connected with the constitution of the country, he could not patiently hear those laws taxed with persecution, with violence and injustice. When he professed an attachment to the principles on which those laws rested, he did not mean to throw any reflection on the opinions of those who conscientiously differed

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from his sentiments. Let him not, therefore, be thought to treat the dissenters as men, who deserved dislike or punishment. He knew their virtue, their morality, their learning. He blamed not parliament. It was true, the question had been agitated two years ago. If gentlemen had been again called upon to renew their application, there could be no blame on their now renewing it. But if it was renewed again and again, he should object to it again and again. Having said this, he should proceed, as well as his memory would let him, to the subject of the hon. gentleman's arguments. He had said, had they deserved this punishment? had they committed crimes? No, they had not. But if they possessed merits ten times more than they did possess, could they demand a repeal of a political law, tending to preserve the government in church and state? He agreed that it was a civil and not a religious question. The acts in question were acts of self-defence for the church, and not meant as a punishment to any description of persons. The principles on which both stood were these: first, that it was essential to the happiness of the country, that the legislature should support the constitution of the church of England; and next, that it was necessary for the support of the constitution of the church of England, that no person should possess power under the church, who should refuse to give a test of his not being ill affected to it. As the establishment of the church of England was necessary to the happiness of the people and the safety of the constitution, the laws in support of it could not be deemed laws of persecution, but an act of self-defence, necessary to the support of the constitution of the church of England.—The next thing the hon. gentleman said, was, that the corporation and test acts were not for excluding the dissenters, but against the Roman Catholics. Whoever would read the corporation act, would see that the fact was otherwise. It was made soon after those unhappy times, when the various Protestant sectaries had overturned the constitution of the church of England, and the same spirit continuing, the corporation act was forced from the legislature to check the dangerous spirit of the sectaries, and to exclude them from corporations, and prevent them from ever resuming their former powers. His lordship recollected a requisition at the time, that every Protestant dissenter should disavow the solemn league and covenant. Could it be supposed that the Roman Catholics would be made to disavow the solemn league and covenant? The test act was made to guard against popery. But both the test and corporation acts, though one was made against Papists and the other against Protestants, could they be imagined to be ignorant of the extent of either? Parliament meant that they should go to the exclusion of all sectaries. When the hon. gentleman came down to the revolution, every body knew the opinion of king William. There was a letter from the prince of Orange to Mr. Stuart, in which the prince said, he agreed to almost every thing proposed in favour of the dissenters, but that he objected to the repeal of the test and corporation acts, because he thought, that people in power should be of the same opinion with the established religion of the country. What was the opinion of king William? Take the language of the king upon the throne, with the House of Lords and House of Commons in full parliament assembled: a parliament containing among its members some of the best supporters of the constitution, and the wisest men that ever sat in parliament. When they confirmed what the king, when prince of Orange, had agreed to, what was the toleration? Protestant dissenters were exempted from recusancy, and all acts against recusants were repealed; they retained the test and corporation acts, thus only excluding the Protestant dissenters from that which they could not enjoy, without participating in the power of the church. What was persecution was exploded, and what was deemed necessary was retained. Thus the line was drawn between persecution and necessary defence. The hon. gentleman had assumed, that an exclusion from offices was a deprivation of natural rights, and a degradation of honour. He said it was not. It was in the power of every government to prescribe the persons to fill the offices of power, and to make what restrictions it thought proper. When it took away any man's natural rights, it exceeded its proper powers. It was surely not depriving them of those rights to exclude them from places of power and trust. It was confounding the constitution of the country to contend otherwise; and whoever supposed that they exceeded their right, must suppose, that there was some part of the executive power not under the control of the legislature. When the le-

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gislature invested the king with supreme power, it limited such power to be exercised on such and such conditions, and applied what checks and controls they thought proper. In arbitrary governments the case was otherwise. Where all the power was lodged in the hands of one man, he might employ A. or B. or C. or whom he pleased. It was one of the trivial advantages belonging to an absolute government; but it was trivial indeed, compared to the essential benefits afforded British subjects under our form of government. In this free constitution, where the legislature is the governing power, the case was otherwise; but they ought not to look to the experience of other countries, and other times, when they had the experience of their own country and their own times. Let him, his lordship said, be shown any thing in the laws, which prevented any men from performing their religious duties in their own way, or that interfered with them in private life. If the dissenters were not satisfied with the complete toleration they already enjoyed, but would claim another step, and ask for the participation of power, then it would become the legislature to pause, and examine, whether it was fit to alter the system that had proved of so much advantage to the constitution both in church and state.—The hon. gentleman supposed, that the present act of parliament subjected ministers to clamour, and a prosecution, for refusing to administer the sacrament to a person known by them to be a notorious ill liver, because such person had been appointed to a place under government. He gave the supposition a direct denial. The rubrick, or canons of the church, forbad ministers to give the sacrament to persons of that description, and they were to do their duty. They acted under the law, and the law would protect them. No person could have a place unless he gives a test that he is a person well affected to the church. The hon. gentleman had said, it was merely a qualification. He denied that; it was a test such as he had described. The hon. gentleman had objected to the test, considering it improper for a test of a religious nature, to be used for civil offices. To that he answered, he was not fond of that test, if a better could be found; but they ought to look for a better before they gave up that. Some test was absolutely necessary. The hon. gentleman had done then as he had done before, compared that test with the other, the oath. He was desired to say what test? He would answer, a religious one, an oath. But the hon. gentleman had said, the Jews, and Turks, and Pagans took oaths. They might do so. He did not know a more solemn act than an appeal to the Almighty, the Governor of the world, who searches all hearts. The hon. gentleman said, that oaths had been abused and too much multiplied. The example of all countries proved oaths necessary for the good order of the state. An oath was a religious appeal to the Almighty, necessary for promoting civil purposes. The intention, therefore, of a sacramental test, was introducing a religious test for a civil purpose. The hon. gentleman said it was not carried into execution. He apprehended it was; but there were instances in which persons had introduced themselves into corporations without taking the test, because they relied on the annual indemnity act, which saved them. This sort of mental fraud did not recommend such persons to the indulgence of the legislature. It was an evasion and an abuse of an act of parliament, which solemnly and substantially required, that the test should be given fairly and truly.—The hon. gentleman, addressed himself, when speaking on the penalties, more to the feelings than to the understanding. The hon gentleman said, the penalties could be considered no otherwise than as a persecution; his lordship would agree with the hon. gentleman, and reprobate them as abominably persecuting, if they were penalties for any person's acting as a guardian, or an executor, or the like; but they were for no such purpose; they went only to exclude from offices under government; and if any man would take upon himself an office without properly qualifying, the penalty falling upon him could not be considered as a persecution, but as a just punishment for him who would presume voluntarily to act in defiance of the known laws of the land. The law enacting the penalties had not, however, been put into execution, no man ever had been examined and convicted thereon; but if it had been enforced, it could not have been justly called persecution, unless it was persecution for the legislature to maintain its laws. If the present motion should be agreed to, it would be going into a new system. He venerated the present system as it had stood for a century. If the question should

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ever be carried, the ancient maxim, that the constitution of England was to be supported by the constitution of the church, would be questioned, and supposed to be abandoned by that House. He revered those laws, and admired them as the best support of the constitution. The test act was a wise caution to guard against popery; great advantages had resulted from it; it had already saved the country from popery; it had proved a stumbling block to king James, when almost every member had been closeted, and it ought to be revered by every Englishman, as having preserved them from popery and arbitrary power. Both acts were intended to support the church; any attempt to sap the foundation of which might prove dangerous not only to the church, but to our freedom and our country.—His lordship said, he could not look back into history without seeing something congenial in the constitution of the church, and the free government of the country. In the time of king James, and previous to his reign, all attacks were first made on the church, and almost immediately afterwards on the constitution of the country: when the church had been attacked, they had been attacked; when they had been suppressed, the church had been suppressed; when the church flourished, they flourished; and it was evident from history that the cause of the church was the cause of the state. The church of the present day had emerged from her errors, and was purged and purified; her conduct was now marked with most tolerant opinions towards those who differed with her, and she breathed the pure spirit of civil liberty, for the preservation of which she was as anxious as any other part of our constitution. The church, dear as she had been to them by their common sufferings and common dangers, ought to be still dear to them when purged of her errors, and when to her loyalty she has added a zeal for public freedom, and was attached not only to her sovereign, but to the people. The dissenters having obtained complete toleration, asked for a participation in offices. He again intreated the House to pause. The dissenters prayer was not against any ecclesiastical persecutions or severities, but had been brought forward in consequence of the moderation of the church. Let her not then, after having survived the attempts of popery, suffer for her virtues and moderation; let gentlemen remember that the security of the church has been built upon those acts; let them remember that the dissenters have a free toleration; let them pause then, and pass not at one step from toleration to participation.—The hon. gentleman had said, there were Baptists, and there were Anabaptists, who wished well to the interests of the church. No matter who they were; if they changed the system in complaisance to any sects, they changed the constitution of the church for ever. He was a little at a loss to make out the hon. gentleman's argument, towards the end of his speech. He had said, it was not all the dissenters that would be affected by repealing the system; it would attach only upon the Presbyterians, the Independents, and the Baptists; the Quakers and Papists would derive no benefit. Was that an argument in favour of the liberality of the hon. gentleman's plan? Would he relieve some dissenters, and not all? The hon. gentleman had said, when he asked one thing, was it reasonable to conclude that he would necessarily ask another? Most certainly, that was a fair way of arguing; but at the same time it must be allowed, that there were principles which ought to be sacred, and that the true argument here was, would they attempt to alter the system, when, if they broke it, they knew not how far they might unsettle it? That was the best place to make their stand in. If they removed one stone of the bulwark, and made the first breach, no one could say how soon the whole would tumble to pieces, and the privileges and constitution of the church be lost for ever.—He said he had to beg pardon of the House for having troubled them so long; he had given them his sentiments, which he might not have another opportunity of delivering, and which he spoke from his heart, without the least particle of a persecuting spirit. He hoped he had given offence to no one; he honoured and respected the dissenters, and was influenced in his opposition only from a conviction, that if the House weakened the church, they weakened themselves; and that if they abandoned the wise precautions of their ancestors, they endangered the constitution of their country.

Sir *James Johnstone* said, he should vote for the question, although he had before opposed it. He had at that time thought that all the old women and children would cry out, "the church was in

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danger;" but he found there had been no such cry, and he was fully persuaded that there had not been any grounds for such a cry at all. He said, he could not conceive why the highest power and authority that freemen could bestow on freemen should be withheld from dissenters, or that it would be more abused by them than by persons of the establised church. The noble lord had said, that the constitution of this country depended on the preservation of their civil and religious liberties; and that if they began to change the principles on which they were established, they would be in danger. If that were to be admitted as a reason for not repealing the test act, it would apply universally, and operate against the repeal of every statute, however absurd. Let the House remember, that no longer ago than the year 1727, an idea was entertained by the legislature, that old women had more power than young ones, and the statutes against witches remained in force. For his part, he wished for universal toleration, and that in every town throughout the kingdom there should be different sectaries. There were, he understood, two ministers of the church of England in that House: why should there not be two dissenting ministers likewise, two of every other description?

Mr. *William Smith* said, that with respect to what he thought of the general question, before he spoke of that, he would take notice of the noble lord's declaration, that whether a notorious ill liver had a place or employment or not, a minister was equally warranted in refusing to administer the sacrament to him, and therefore was relieved from the difficulty, which the hon. gentleman who made the motion, had stated him to labour under. He believed the noble lord would find but very few lawyers declare such to be the law. His quarrel with the test act, Mr. Smith said, was not for its inadequacy, but for its partial adequacy; since it bore upon some dissenters, and not upon others. The noble lord had asserted, that it only meant to affect one class of dissenters, since no dissenters were excluded from the participation of power by the operation of the test laws, but such as were determinately against the discipline and doctrines of the church of England. The noble lord must know but little of the opinion of the dissenters if he thought so. Their objection lay against the making a religious ceremony the test of taking a civil office; and their objection would equally hold good if they were to be called upon to take the sacrament in their own meetings. Mr. Smith pointed out the difference between taking an oath and taking the sacrament; the first, he said, was only a solemn affirmation in the presence of God, that what a man said was true; the other was an avowal, that they belonged to the established church of England, and approved of the doctrines and discipline of that church. An oath, therefore, was a civil proceeding, a sacramental test, a religious ceremony. With regard to the inadequacy of the test act, as the matter stood at present, a man might come to the table and qualify himself for office by receiving the sacrament, and both an hour before and an hour afterwards he might publicly profess that he did not belong to the established church, and that he disapproved of its discipline and doctrines. With regard to the noble lord's declaration, that the religion of the country was necessarily connected with the state and a part of the government, he must own himself not to be convinced by the noble lord's argument. That the opinion was not generally recognised, he would show by reading a short quotation from the work of a very respectable clergyman, Mr. archdeacon Paley. He here read an extract, in which the archdeacon states, that if ever the religion of the country was considered as part of the government of the country, or even as its ally, and used as a political engine of state, the most mischievous consequences would result from the exercise of its influence.—With respect to the noble lord's declaration, that the existence of the test act was essential to the security of the country, he could not admit it, neither could he conceive that the discipline and doctrines of the church of England, might not remain in full force, if no legal impediment were thrown in the way of dissenters. He declared, that the restraint which did not cure an evil, was a punishment; and he contended, that the restraint imposed upon dissenters did not cure any evil that existed. He reasoned upon the absurdity, as well as oppression, of saying, that it was necessary for the security of the established church, that no dissenter should be in the meanest office. He asked, was it the doctrines of the established church that required protection? He trusted, that would not be admitted; for no one surely would say, that, supported by the great luminaries that now dignified the

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bench, supported also by the two universities, the sources of their education and principles, they could be so. Besides, the doctrines of the church of England were as much in danger of being attacked at that moment, as they would be if the test act had been repealed. Because a few dissenters might not approve the doctrines of the church of England, and not approving, might arraign them in argument, was that a reason for imposing disabilities and severe restrictions upon the whole body of dissenters? He thought truth always would prevail, but when falsehood existed, the secular power of the country was required to support it. The noble lord had said, the existence of the church and the existence of the constitution went hand in hand. He thought him mistaken; and as a proof that the history of the church did not bear the noble lord out in his assertion, the noble lord himself thought it proper, soon after his historical deduction of the state of the church, to refer to a period in which the church of England had acted with a spirit of violence, and a spirit of intolerance. The noble lord had asserted, that a participation of power was not necessary to complete toleration. Mr. Smith said, he could prove that it was; and why was it not? The only reason assigned was, that it might enable dissenters to share in the power accompanying office. If to be admissible to office, was a right belonging to other subjects, why ought not every good subject to be equally entitled to possess it? It was a most fallacious argument to say, that because the law did exist, it was therefore just, and ought not to be repealed. He reminded the House, that the law before repealed in favour of the dissenters, had stood exactly in the same situation as the test act did. The same sort of objections had been urged against its repeal, and many applications had been made before it was repealed. The idea was, that it would put dissenters in a new situation, if the test and corporation acts were repealed, and that they ought not to be repealed, because it would give influence to the dissenters; for the very same reason, they might say, that men should not grow rich, because riches undoubtedly gave influence; and yet the dissenters were not debarred from acquiring wealth. With regard to the practice of foreign countries in employing Protestants, the noble lord had said it was one of those trivial advantages belonging to arbitrary power; if it be a trivial advantage, why should not this country possess itself of it? The noble lord said, the dissenters made an ill use of the laws of the country by taking advantage of the indemnity bills, and never qualifying. What were the indemnity acts passed for, but to be resorted to as a protection against the consequences of not having conformed? He reasoned upon the folly of preserving on the statute books, acts that they were ashamed to enforce, and the disrespect avowed for which rendered a repetition of indemnity acts annually necessary. The noble lord had not displayed his usual liberality and candour: he had spoken with great solemnity of manner, but his arguments had been weak and fallacious; he hoped, therefore, to hear the noble lord's sophistry refuted, and his pompous nothings exposed. They were exactly like the old cry, that "the church was in danger," which was sounded throughout the kingdom in the time of Sacheverel.

Lord *North* in reply said, that some of the things the hon. gentleman had stated, must have arisen either from his not having expressed himself properly, or from the hon. gentleman's having misunderstood him. What he said about the operation of the test act was, that it only excluded those dissenters from power, who had so perfect an aversion to the doctrine of the church of England that they refused to communicate with that church. Another objection to what he had said, was about the law: he would re-state his argument—it was this: If any notorious evil doer offered himself to receive the Sacrament, he might be rejected; and his having or not having a place did not at all make the case different. The minister might reject him; nor did such rejection render the minister liable to any punishment, If the minister had good reason to believe the person applying for the sacrament was an evil doer, he might refuse it. That he apprehended to be the law, and he should continue to apprehend so, till he heard from good authority that it was not so. What hurt him most was, the hon. gentleman's having charged him with illiberality in saying that some of the dissenters had abused an act of parliament. The fact he understood to stand thus: the indemnity acts came frequently, and the persons who had taken offices and not qualified, instead of availing themselves of the opportunity afforded by the act of indemnity, did not conform, but waited till another

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act came forward, and so on from time to time, without taking the test at all. This, his lordship declared, he must say, was an abuse of the indulgence of the legislature. He hoped, however, the hon. gentleman would not from this conclude that he had any personal ill-will against the dissenters in general. He knew them to be a very respectable and meritorious body of men, and that several of them had distinguished themselves eminently by their writings. A dissenter might make as good a magistrate as another, but he spoke against his acting contrary to law, and taking advantage of its indulgence. He hoped his arguments had not made the same impression on the House as they appeared to have done on the hon. gentleman. As to their having been pompous nothings, experience and reason were the grounds of his argument. With regard to the connexion between the church and state, he must maintain that assertion; if the House would recur to history they would find that when the church tottered, the state had tottered likewise; and that the ruin of the former had regularly preceded the ruin of the constitution. Would that be termed pompous? At the same time, he had said, the principles of the church might be carried too far, and had instanced when her conduct had been marked with intolerance and violence of spirit. His lordship said, he could only impute the hon. gentleman's disrespect of his argument, and his terming it sophistry, and a series of pompous nothings, because it happened to have been uttered by one of the weakest members in the House; the same arguments delivered by any other gentleman, he trusted, would be thought to have some weight; at the same time, he did not blame the hon. gentleman for having differed with him in opinion. The hon. gentleman had a right to see the matter in one point of view, as much as he had to consider it in that in which he had for years been accustomed to think upon it. He complained not of the matter of the hon. gentleman's objection, though he had not perhaps treated him with the same candour that he had himself endeavoured to treat the subject with.

Mr. *Fox* said, that on the present occasion, he did not feel himself under the necessity of trespassing, for any length of time upon the indulgence of the House; because the nature of the subject now under their investigation had been so thoroughly examined, and so amply and variously reasoned upon, not merely within the walls of parliament, but in every corner of the kingdom, that it was not in his power to give the force of novelty to arguments, the frequency of the repetition of which must still live within the general remembrance. He could not avoid declaring at the outset, that he experienced an insurmountable difficulty in submitting to that opinion of the hon. gentleman who spoke last, which had led him to describe the reasonings of the noble lord in the blue ribbon as weak, fallacious, and pompous nothings. Although even the solid and brilliant abilities of the noble lord could not impart an irresistible weight to that side of the question which he had chosen to espouse, yet their exertions were too formidably respectable to be laid open to the lash of either levity or contempt. He was, however, so much accustomed to find the House adopt a contrary opinion to that which he endeavoured to maintain, that he was apprehensive the noble lord's arguments would have more weight with the majority of the House than his own. Whatever sentiments gentlemen might have formed with respect to religion, with respect to an established church, to toleration, or to the length to which it ought to extend, there could, in his opinion, be no objection to a motion which went only to a committee of inquiry. If the corporation and test acts should appear to be wrong in their principle, they certainly ought to be repealed; if they were right in their principle, it might, perhaps, be found that they were inadequate to the purpose for which they were enacted. In either case, examination and inquiry might do much good, and could not possibly prove injurious.

The first question which naturally presented itself was, whether the church and the constitution were necessarily connected and dependant on each other, and in what degree? And on this point the House, he trusted, would be careful how they assented to the proposition of the noble lord. For his own part, he should not scruple most unequivocally to declare that he conceived that religion should always be distinct from civil government and that it was no otherwise connected with it, than as it tended to promote morality among the people, and thus conduced to good order in the state. No human government had a right to inquire

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into private opinions, to presume that it knew them, or to act on that presumption. Men were the best judges of the consequences of their own opinions, and how far they were likely to influence their actions; and it was most unnatural and tyrannical to say, "As you think, so must you act. I will collect the evidence of your future conduct from what I know to be your opinions." The very reverse of this was the rule of conduct which ought to be pursued. Men ought to be judged by their actions, and not by their thoughts. The one could be fixed and ascertained, the other could only be matter of speculation. So far was he of this opinion, that if any man should publish his political sentiments, and say in writing, that he disliked the constitution of this country, and give it as his judgment that principles in direct contradiction to the constitution and government were the principles which ought to be asserted and maintained, such an author ought not, in his judgment, on that account, to be disabled from filling any office, civil or military; but if he carried his detestable opinions into practice, the law would then find a remedy, and punish him for his conduct, grounded on his opinions, as an example to deter others from acting in the same dangerous and absurd manner. No proposition could, he contended, prove more consonant to common sense, to reason and to justice, than that men should be tried by their actions, and not by their opinions: their actions ought to be waited for, and not guessed at, as the probable consequence of the sentiments which they were known to entertain and to profess. If the reverse of this doctrine were ever adopted as a maxim of government, if the actions of men were to be prejudged from their opinions, it would sow the seeds of jealousy and distrust, it would give scope to private malice, it would sharpen the minds of men against one another, incite each man to divine the private opinions of his neighbour, to deduce mischievous consequences from them, and thence to prove that he ought to incur disabilities, and be fettered with restrictions. This, if true with respect to political, was more peculiarly so with regard to religious opinions; and from the mischievous principle which he had described, flowed every species of party zeal, every system of political intolerance, every extravagance of religious hate.

In this position, that the actions of men, and not their opinions, were the proper objects of legislation, he was supported by the general tenor of the laws of the land. History, however, afforded one glaring exception, in the case of the Roman Catholics. The Roman Catholics, or, more properly speaking, the Papists, as the noble lord had very justly called them (a distinction which, he trusted, was perfectly understood by all who heard him, and would ever be maintained by the English Roman Catholics in time to come), had been supposed by our ancestors to entertain opinions which might lead to mischief against the state. But was it their religious opinions that were feared? Quite the contrary. Their acknowledging a foreign authority paramount to that of the legislature; their acknowledging a title to the crown superior to that conferred by the voice of the people; their political opinions, which they were supposed to attach to their religious creed, were dreaded, and justly dreaded, as inimical to the constitution. Laws, therefore were enacted to guard against the pernicious tendency of their political, but not of their religious opinions, and the principle thus adopted, if not founded on justice, was at least followed up with consistency. Their influence in the state was feared, and they were not only restricted from holding offices of power or trust, but rendered incapable of either purchasing lands, or acquiring influence of any kind. But if the Roman Catholics of those times, and not the Roman Catholics of the present day, were Papists, in the strictest sense of the expression, even upon this ground, Mr. Fox observed, that he should hold himself justified in declaring that the legislature ought not to have acted against them, until, by carrying into practice some of the dangerous doctrines which they were thought to entertain, they had rendered themselves obnoxious to those penalties which, in the case of such a perpetration, it threatened to inflict. Disability and punishment ought to have followed, but not to have anticipated, offence.

Those who attempted to justify the disabilities imposed on the dissenters, must contend, if they argued fairly on their own ground, not that their religious opinions were inimical to the established church, but that their political opinions were inimical to the constitution. If they failed to prove this, to deprive the dissenters of any civil or political advantage,

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was a manifest injustice; for, it was not sufficient to say to any set of men, "We apprehend certain dangers from your opinions, we have wisely provided a remedy against them, and you who feel yourselves aggrieved, calumniated, and proscribed by this remedy, must prove that our apprehensions are ill founded." The *onus probandi* lay on the other side; for whoever demanded that any other person should be laid under a restriction, it was incumbent on him first to prove that the restriction was necessary to his safety by some overt act, and that the danger which he apprehended was not imaginary but real. To such a ground as this the noble lord in the blue ribbon had not endeavoured to advance; but, on the contrary, had expressed himself concerning the dissenters in terms the most liberal and handsome. For what reason? Because he felt that encomiums of this nature must be considered as a candid adherence to true propriety, and to the principles of common justice. He knew that they had been steady in their attachment to government; that their religious opinions were favourable to civil liberty, and that the true principles of the constitution had been remembered and asserted by them, at times when they were forgotten, perhaps betrayed, by the church.

Such had been the character of the dissenters. Were their political opinions now different from what they had been at any one preceding æra? Were they more formidable from their numbers, more dangerous from their principles, more considerable in any respect, except, perhaps, from the talents of some of their members? No assertion of this kind had been ever made; and the noble lord finding their exclusion from an equal participation of power with their fellow-subjects, a topic on which it was impossible for him to serve his cause, had entered on a more pleasing theme; a panegyric on the church of England; which, he said, had shared the dangers and the fate of the state, had sunk and risen with the constitution, and therefore ought to be peculiarly endeared to us. He felt no difficulty in acknowledging the justice of this encomium; but he could not consent to adopt the conclusion—that the happiness of the state was dependant on the flourishing state of the church; for who that perused the history of those dangers which the church had shared in common with the state, but must see that the church might have been triumphant, while the state was in ruin? Was it seriously to be contended, that religion depended on political opinions; that it could subsist only under this or that form of government? It was an irreverent and impious opinion to maintain, that the church must depend for support as an engine or ally of the state, and not on the evidence of its doctrines, to be found by searching the scriptures, and the moral effects which it produced on the minds of those whom it was its duty to instruct.

The noble lord had praised the moderation of the church. To this, however, there were some exceptions. In the reign of Charles 2, her fortitude had been greater than her moderation; in that of James 2, her servility had been greater than either; under king William, and still more, under queen Mary, so little had the clergy been distinguished for moderation, that they frequently disturbed the nation by their affected alarms for the safety of the church; and he never apprehended persecution to be so near, as when those who were actually possessed of power, cried out that they were in danger; thus justifying the truth of the well-known remark, "Omnia formidant, formidanturque tyranni." Since the accession of the House of Brunswick, that auspicious æra in the history of the constitution, the church had merited every praise, because it had not been indulged in either its whims or its imaginary apprehensions. Since that time, it had flourished and improved; but how? By toleration and moderate behaviour. And how had these been produced? By the members of the established church being forced to hear the arguments of the dissenters; by their being obliged to oppose argument to argument, instead of imposing silence by the strong hand of power; by that modest confidence in the truth of their own tenets and charity for those of others, which the collision of opinions in open and liberal discussion among men living under the same government, and equally protected by it, never failed to produce. Moderation, and indulgence to other sects, were equally conducive to the happiness of mankind, and the safety of the church; and for that moderation and liberality of sentiment, by which the church had flourished during the two last reigns and the present, was she indebted to those very dissenters from whom she thought herself in danger.

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With regard to the test act, he thought that the best argument which could be used in its favour was, that if it had but little good effect, it had also little bad. In his opinion, it was altogether inadequate to the end which it had in view. The purport of it was, to protect the established church, by excluding from office every man who did not declare himself well affected to that church. But a professed enemy to the hierarchy might go to the communion table, and afterwards say, that in complying with a form enjoined by law, he had not changed his opinion, nor, as he conceived, incurred any religious obligation whatever. There were many men, not of the established church, to whose services their country had a claim. Ought any such man to be examined before he came into office, touching his private opinions? Was it not sufficient that he did his duty as a good citizen? Might he not say, without incurring any disability, "I am not a friend to the church of England, but I am a friend to the constitution, and on religious subjects must be permitted to think and act as I please." Ought their country to be deprived of the benefit which she might derive from the talents of such men, and his majesty prevented from dispensing the favours of the Crown, except to one description of his subjects? But whom did the test exclude? the irreligious man, the man of profligate principles, or the man of no principle at all? Quite the contrary; to such men the road to power was open; the test excluded only the man of tender conscience; the man who thought religion so distinct from all temporal affairs, that he held it improper to profess any religious opinion whatever, for the sake of a civil office. Was a tender conscience inconsistent with the character of an honest man? or did a high sense of religion show that he was unfit to be trusted?

But the noble lord contended, that the established church ought to be protected. Granting this, it was next to be inquired, what was the established church? Was the church of England the established church of Great Britain? Certainly not; it was only the established church of a part of it; for, in Scotland, the kirk was as much established by law, as the church was in England. The religion of the kirk was wisely secured as the established religion of Scotland by the articles of union; and it was surely absurd to say, that a member of the kirk of Scotland, accepting an office under government, not for the service of England exclusively, but for the service of the united kingdoms, should be obliged to conform, not to the religious establishment of Scotland, in which he had been bred, but to the religious establishment of England. It was singular to contend for any principle of persecution, when the only principle on which it could ever have been reconciled to a rational mind was abandoned, not only in speculation, but in practice. In ancient times, persecution originated in the generous, though mistaken principle, that there could be but one true religion, but one faith, by which men could hope for salvation; and that it was not only lawful but meritorious, to compel them to embrace the true faith, by all the means, of whatever nature they might prove, which offered. The rectitude of the intention might, perhaps, be some excuse for the barbarity of the practice. But how did we act? We acknowledged, not one true religion, but two true religions; a religion for England, and a religion for Scotland; and having been originally liberal in the institution of two churches of equal right, we became illiberal in our more enlightened days, and granted to the members of one established church, what we denied to those of another, equally established. According to this doctrine of protecting the church of England, if the practice had kept pace with the principle, the country must have been deprived of all those gallant characters of the kirk of Scotland, who had so eminently distinguished themselves in the army and the navy; and of all those celebrated legislators and senators who had added learning and dignity to the courts of justice, and wisdom to his majesty's councils. If tests were right, the present was clearly a wrong test, because it shunned all the purposes for which tests were originally introduced.

The candour of the noble lord, and the information which, doubtless, he had collected upon inquiry since, Mr. Fox said, had enabled him to satisfy the House in a point which had not been answered two years ago, and that was, in the case of a person who was a notorious evil doer, who applied for the sacrament. The manner of the noble lord's answer was rational, and, from the good sense of it, he had no doubt that it was the true answer; but, upon this ground, it might be

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proper to take a serious view of the melancholy situation of the person who, upon application to a minister, had been refused the sacrament. From that very moment, did he incur the penalties of the act; from that moment, was he punished in a manner perfectly unexampled, and unauthorized by the laws of the land; from that moment, was he convicted without a trial by jury, and disabled from enjoying an office which his majesty, in the legal exercise of his prerogative, might have thought proper to confer upon him?

Much boasted reliance had been placed upon the old argument of the length of time that the test and corporation acts had subsisted. It was true, that they had so subsisted for nearly a century: but how had they subsisted? By repeated suspensions; for the indemnity bills were, he believed, literally speaking, annual acts. With regard to the noble lord's argument relative to the evading of these indemnity bills, he admitted, that if any person neglected to conform merely for the sake of evading the law, he certainly acted in direct opposition to an act of parliament, and did not conduct himself as a good subject ought to do. While an act was deemed fit to remain in force, it was the duty of every good subject not to evade it. Indeed, the only justification of evading a statute which could be for a moment maintained, was, where that statute notoriously ought not to remain in force. He trusted, however, that the House would consent to go into the committee, to examine whether it was fitting or necessary to be repealed or not, and not deny the requisition, as if they were ashamed even to look at the statutes in question. He trusted that it was scarcely necessary to remind the House, that in consequence of a violent alarm from the papists, the test act had been introduced, with a view to exclude them, and them only, from office; that the dissenters had cordially joined in it, and consented to their own exclusion, thinking that a less evil than to leave the door open to papists. And is it possible, therefore, (added Mr. Fox), that you can thus ungenerously requite them; thus take a most unbecoming advantage of their patriotism, and convert what they consented to as necessary for the general safety at that time, into a perpetual exclusion against themselves! Is it thus the church would reward the service they had done her in the day of her distress!

Adverting to the occasional conformity act, which had been repealed a few years since, Mr. Fox observed, that they had heard, during the course of the debate, that the church of England was in its glory. The church of England, therefore, according to the arguments of the noble lord, and the advocates for the continuance of the statutes, which, he contended, were at once too needless and too unjust to remain in force any longer, had not suffered, but gained by what they feared would have proved detrimental to her interests. The dissenters had been stated to be pious and good men; but it had been said, that they might nevertheless be no friends to the church of England. Surely, if they were dangerous any where, it must be as members of parliament, and as electors of the representatives of the people; and yet they were suffered to sit as the one, and vote as the other. Mr. Fox declared that, for his own part, he was a friend to an established religion in every country, and wished that it might always be that which coincided most with the ideas of the bulk of the state, and the general sentiments of the people. In the southern parts of Great Britain, hierarchy was the established church, and in the northern, the kirk; and for the best possible reason, because they were each most agreeable to the majority of the people in their respective situations. It would, perhaps, be contended, that the repeal of the corporation and test acts might enable the dissenters to obtain a majority. This he scarcely thought probable; but it appeared fully sufficient to answer, that if the majority of the people of England should ever be for the abolition of the established church, in such a case, the abolition ought immediately to follow.

To the opinion of the hon. gentleman who opened the debate, that there were too many oaths imposed by the statutes in force, he most thoroughly assented. What, he desired to know, could be a greater proof of the indecency resulting from the practice of qualifying by oaths, than if, when a man was seen upon the point of taking the sacrament, it should be asked, "Is this man going to make his peace with Heaven, and to repent him of his sins?" the answer should be, "No; he goes to the communion table, only because he has lately received the appointment of first lord of the treasury!" When the noble lord in the blue ribbon repre-

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sented the corporation act to have been forced from the legislature as an act of self-defence, he might truly be said to have entered into the exact description of an act which, after the lapse of a century, when the grounds and reasons for passing it no longer existed, ought to be repealed. The noble lord had accurately stated, that the corporation act was forced from the legislature in the reign of Charles 2, by the violence of the sectaries, which had not only overturned the church, but the state, and that so lately, that threatening to do the same again, it became necessary to apply a present preventive, to guard against the impending danger. No better argument, he repeated, need be urged against it now, than that it had been extorted a century ago from the legislature, by resentment of past and the dread of future injuries. Fear and indignation had operated on the parliament of Charles 2. Did the same motives operate on the parliament of George 3? Certainly not; and could there be any reason for continuing an act, when the violence which gave birth to it had, long since, subsided? Party and religion were separate in their views and in their nature; and as it was for the reputation of both that they should remain so, he therefore urged the injustice of harassing with penalties, disabilities, and statutable restrictions, the dissenters; a respectable body of men, whose morals were not inconsistent with the religion of the church of England, and whose sentiments were favourable to the family on the throne.

It had been said, that in France it was customary for Protestants to be employed in the army and in civil offices, and that in Protestant countries abroad, Papists were also employed. For the purpose of invalidating this remark, the noble lord had given an ingenious and able answer; but let it be examined. The noble lord had said, that the monarch of a free country was limited, while the employing whom the prince pleased was one of the trivial advantages incidental to absolute power. Let not, then, Great Britain be the last to avail herself of such an advantage. Wisdom had been described as the offspring of freedom; and should a people, who boasted of their freedom, and amongst whom, he firmly believed, men of enlightened understandings were more common than among those who lived under a less happy form of government, reject those liberal principles of toleration which other nations had adopted? It was upon such a ground that, addressing himself to the church of England in particular, he felt himself justified in accosting her, as a friendly adviser, in language to this effect:

"Tuque prior, tu parce, genus qui ducis Olympo!"

And surely the church of England ought, if possible, more than any other ecclesiastical establishment upon earth, practically to inculcate the glorious idea that indulgence to other sects, the most candid allowance for the diversity of their opinions, and a sincere zeal for the advancement of mutual charity and benevolence, were the truest and the happiest testimonies which she could give of the divine origin of her religion! Mr. Fox concluded with giving his hearty assent to the motion.

Mr. *Martin* approved of the motion, and wished that in matters of religious worship, every man might be permitted to follow that form which was most agreeable to himself, although he certainly thought some forms were more rational than others.

Mr. *Pitt* said, that he perfectly agreed with the right hon. gentleman in the broad principle he had laid down, that the religious opinions of any set of men were not to be restrained and limited, unless they should be found likely to prove the source of civil inconvenience to the state; and that the civil magistrates ought not in any other point of view, to interfere with them. But there had always been admitted to be this solid distinction, that although there is no natural right to interfere with religious opinions, yet when they are such as may produce a civil inconvenience, the government has a right to guard against the probability of the civil inconvenience being produced, nor ought they to wait till, by being carried into action, the inconvenience has actually arisen. It was therefore an over-straining of the principle when the right hon. gentleman declared, that in no case was it warrantable for a legislature to interfere with men's religion. With regard to Papists (to use the right hon. gentleman's own word) as they stood a century ago, when all the abominable doctrines that clung to them were thought fit objects of the precaution of the state, and it was the policy of the government to pass the test act for that purpose, surely the doctrine of a toleration unlimited without exception could not be right. The right hon. gentleman had said that their prejudices were removed, and that they were very differently affected at present; to that he sub-

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scribed, but believed the alteration for the better had not merely taken place here, nor was by any means peculiar to Great Britain. It was, he believed, pretty generally felt upon the continent, and was owing to the universal intelligence that had spread itself through all ranks of people, which had contributed to enlighten their minds, soften their hearts, and enlarge their understandings. He declared he was ready to do justice to the dissenters of former times, as he was ready to do justice to the present. It was not on the ground that they would do any thing to affect the civil government of the country, that they had been excluded from holding civil offices, but that if they had any additional degree of power in their hands they might. It would, he believed, be admitted by all men, that the establishment of a settled form of church, and of its ministers, was necessary to the civil government of the country. Was it then proper to prevent the emoluments and offices of the established church from being distributed among persons, who, however respectable they might be, were not members of the same communion? The question, therefore, had been, whether these offices which might in one view be considered as a matter of favour, and in another as a matter of trust, should be given to persons well affected to the church, or to persons of a very different description? He said, it was a matter of favour, because it was consistent with the government of this country, that all offices should be given at its discretion; and here, from the delicate nature of the case, the legislature had thought proper to interpose, and to restrain the supreme magistrate, the head of the executive authority, and limit him in his appointment to these offices: but surely this differed essentially from any degradation, disgrace, or punishment of the dissenters. It was necessary for the House to consider the danger, and here he declared he meant not to impute views to men, which many of them disclaimed, and professed themselves to be well wishers to the established church; but there were others among them, as the dissenters themselves well knew, who had held a very different conduct, and not only objected against many of the doctrines of the established church, but went so far as to contend against the propriety of there being any establishment at all. There would surely, therefore, be some little degree of rashness and of danger in placing offices in the hands of persons of this description. The right hon. gentleman had mentioned the kirk of Scotland; but the kirk of Scotland did not complain, and therefore there was no ground of objection there. Besides, the right hon. gentleman had said, that persons did come from Scotland, and took civil and military offices upon themselves; and that being the case, the right hon. gentleman's argument in that respect failed him, because he could not have the benefit of the argument both ways. He agreed with lord North in several parts of his argument, particularly that the law had existed for above a century, and that it had ever been looked upon as one of the bulwarks of the constitution. He said that the repeal of the acts in question would open the door again to all the abuse and danger which they had been designed to guard against. He spoke of the quiet that obtained at present in relation to religious differences, and said, if there was any thing that could interrupt the harmony between sects, once contending with great virulence and asperity, it was that of awaking a competition, and rekindling the sparks of ancient animosity which mutual forbearance had almost stifled and extinguished. On these principles he must withhold his consent to the motion.

Mr. *Windham* said, he would trouble the House with a few words only, which would bring the question into a very narrow compass. The whole seemed to him to turn on a question of fact. He feared he differed from his right hon. friend (Mr. Fox) and from the right hon. gentleman over the way. He could not agree with his right hon. friend, that it would not be proper to exclude any man from a participation of power on account of his religious opinions; neither could he agree with the right hon. gentleman that such exclusion was little less exceptionable, unless the sentiments affected the civil government of the country. He thought that religious opinions became part of the constitution of the country. Having said this, he declared he thought that this exclusion was not to be considered as a punishment, but as the noble lord had termed it, an act of self-defence. The noble lord had well handled the difference of self defence and persecution, but he would recollect, that it was a varying doctrine necessarily, and when, after a lapse of time, facts and premises had changed and shifted, and the whole system was to be looked at *ab initio*

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tuitu, it might be warrantable to give way. The right hon. gentleman had said, the repeal would open the door to abuse; it certainly would open the door, but if it would do it so far only as to enable the dissenters to feel themselves no longer prescribed, but admissible to power, he should think it ought to be done. He did not think they had any disposition to shake the established church; but, if they had, the desired repeal did not give them the power; for what power was it compared to that of being electors and members of parliament?

The House divided on Mr. Beaufoy's motion:

Tellers.

Yeas	Mr. Plumer Lord Maitland	102
Noes	Mr. G. A. North Sir W. Dolben	122

So it passed in the negative.

Debate on Mr. Wilberforce's Resolutions respecting the Slave Trade.] May 12. Mr. Wilberforce moved the order of the day, for the House to resolve itself into a committee on the petitions which had been presented against the slave trade. The order of the day being read, he next moved, "That the report of the committee of privy council be referred to the said committee: that the acts passed in the islands relative to slaves be referred to the said committee; that the evidence adduced in the course of the preceding year on the slave trade, be referred to the said committee: that the petitions offered during the last session against the slave trade be referred to the said committee: and that the accounts presented to the House in the last and present session, relative to the exports and imports to Africa be referred to the said committee." These motions being all agreed to, the House immediately resolved itself into the committee; sir W. Dolben in the chair.

Mr. *Wilberforce* now rose and said:—When I consider the magnitude of the subject which I am to bring before the House—a subject, in which the interests, not of this country, nor of Europe alone, but of the whole world, and of posterity, are involved: and when I think, at the same time, on the weakness of the advocate who has undertaken this great cause—when these reflections press upon my mind, it is impossible for me not to feel both terrified and concerned at my own inadequacy to such a task. But when I reflect, however, on the encouragement which I have had, through the whole course of a long and laborious examination of this question, how much candour I have experienced, and how conviction has increased within my own mind, in proportion as I have advanced in my labours;—when I reflect, especially, that however averse any gentleman may now be, yet we shall all be of one opinion in the end;—when I turn myself to these thoughts, I take courage—I determine to forget all my other fears, and I march forward with a firmer step in the full assurance that my cause will bear me out, and that I shall be able to justify, upon the clearest principles, every resolution in my hand, the avowed end of which is, the total abolition of the slave trade. I wish exceedingly, in the outset, to guard both myself and the House from entering into the subject with any sort of passion. It is not their passions I shall appeal to—I ask only for their cool and impartial reason; and I wish not to take them by surprise, but to deliberate, point by point, upon every part of this question. I mean not to accuse any one, but to take the shame upon myself, in common, indeed, with the whole parliament of Great Britain, for having suffered this horrid trade to be carried on under their authority. We are all guilty—we ought all to plead guilty, and not to exculpate ourselves by throwing the blame on others; and I therefore deprecate every kind of reflection against the various descriptions of people who are more immediately involved in this wretched business.

In opening the nature of the slave trade, I need only observe, that it is found by experience to be just such as every man, who uses his reason, would infallibly conclude it to be. For my own part, so clearly am I convinced of the mischiefs inseparable from it, that I should hardly want any farther evidence than my own mind would furnish, by the most simple deductions. Facts, however, are now laid before the House. A report has been made by his majesty's privy council, which, I trust, every gentleman has read, and which ascertains the slave trade to be just such in practice as we know, from theory, it must be. What should we suppose must naturally be the consequence of our carrying on a slave trade with Africa? With a country vast in its extent, not utterly barbarous, but civilized in a very small degree? Does any one suppose a

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slave trade would help their civilization? Is it not plain, that she must suffer from it? That civilization must be checked; that her barbarous manners must be made more barbarous; and that the happiness of her millions of inhabitants must be prejudiced with her intercourse with Britain? Does not every one see that a slave trade, carried on around her coasts, must carry violence and desolation to her very center? That in a continent just emerging from barbarism, if a trade in men is established, if her men are all converted into goods, and become commodities that can be bartered, it follows, they must be subject to ravage just as goods are; and this, too, at a period of civilization, when there is no protecting legislature to defend this their only sort of property, in the same manner as the rights of property are maintained by the legislature of every civilized country. We see then, in the nature of things, how easily the practices of Africa are to be accounted for. Her kings are never compelled to war, that we can hear of, by public principles, by national glory, still less by the love of their people. In Europe it is the extension of commerce, the maintenance of national honour, or some great public object, that is ever the motive to war with every monarch; but, in Africa, it is the personal avarice and sensuality, of their kings: these two vices of avarice and sensuality, the most powerful and predominant in natures thus corrupt) we tempt, we stimulate in all these African princes, and we depend upon these vices for the very maintenance of the slave trade. Does the king of Barbessin want brandy? he has only to send his troops, in the night time, to burn and desolate a village; the captives will serve as commodities, that may be bartered with the British trader. What a striking view of the wretched state of Africa does the tragedy of Calabar furnish! Two towns, formerly hostile, had settled their differences, and by an intermarriage among their chiefs, had each pledged themselves to peace; but the trade in slaves was prejudiced by such pacifications, and it became, therefore, the policy of our traders to renew the hostilities. This, their policy, was soon put in practice, and the scene of carnage which followed was such, that it is better, perhaps, to refer gentlemen to the privy council's report, than to agitate their minds by dwelling on it.

The slave trade, in its very nature, is the source of such kind of tragedies; nor has there been a single person, almost, before the privy council, who does not add something by his testimony to the mass of evidence upon this point. Some indeed, of these gentlemen, and particularly the delegates from Liverpool, have endeavoured to reason down this plain principle: some have palliated it; but there is not one, I believe, who does not more or less admit it. Some, nay most, I believe, have admitted the slave trade to be the chief cause of wars in Africa. Mr. Penny, a Liverpool delegate, has called it the concurrent cause; some confess it to be sometimes the cause, but argue that it cannot often be so. Here I must make one observation, which I hope may be done without offence to any one, and which I do, once for all, though it applies equally to many other evidences upon this subject. I mean to lay it down as my principle, that evidences, and especially interested evidences, are not to be judges of the argument. In matters of fact, of which they speak, I admit their competency; I mean not to suspect their credibility with respect to any thing they see or hear, or themselves personally know; but, in reasoning about causes and effects, I hold them to be totally incompetent. So far, therefore, from submitting to their conclusions in this respect, I utterly discard them. I take their premises readily and fairly; but, upon these premises, I must judge for myself: and the House, I trust, nay, I perfectly well know, will in like manner judge for itself. Confident assertions, therefore, not of facts but of supposed consequences of facts, however pressed by the Liverpool delegates, or any other interested persons, go for nothing in my estimation: and it is necessary that parliament should proceed upon this principle, as well in this as every other public question in which interested evidences must be examined. Thus the African committee have reported that very few enormities, in their opinion, can have been practised in Africa; because, in forty years, only two complaints have been made to them. I admit the fact to them undoubtedly; but, I trust gentlemen will judge for themselves, whether parliament is to rest satisfied that there are no abuses in Africa, in spite of all the positive proofs of so many witnesses on the spot to the contrary. Whether, for instance, Mr. Wardstrom's evidence, Dr. Spaarman's, Captain Hill's, are to go for nothing, many of whom either saw the

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battles, were told by the kings themselves, that it was for the sake of slaves they went to battle, or conversed with a variety of prisoners taken by these means. In truth an inquiry from the African committee whether any foul play prevails in Africa, is somewhat like an application to the Custom-house officers to know whether any smuggling is going on; the officer may tell you that very few seizures are made, and very few frauds come to his knowledge; but does it follow that parliament must agree to all the reasonings of the officer? and though smuggling be ever so notorious through the land, must agree there is no smuggling, because the officer reports that he makes very few seizures, and seldom hears of it? I will not believe, therefore, the mere opinions of African traders, concerning the nature and consequences of the slave trade. It is a trade in its principle most inevitably calculated to spread disunion among the African princes, to sow the seeds of every mischief, to inspire enmity, to destroy humanity; and it is found in practice, by the most abundant testimony, to have had the effect in Africa of carrying misery, devastation, and ruin wherever its baneful influence has extended.

Having now disposed of the first part of this subject, I must speak of the transit of the slaves in the West Indies. This I confess, in my own opinion, is the most wretched part of the whole subject. So much misery condensed in so little room, is more than the human imagination had ever before conceived. I will not accuse the Liverpool merchants: I will allow them, nay, I will believe them, to be men of humanity; and I will therefore believe, if it were not for the multitude of these wretched objects, if it were not for the enormous magnitude and extent of the evil which distracts their attention from individual cases, and makes them think generally, and therefore less feelingly on the subject, they never would have persisted in the trade. I verily believe therefore, if the wretchedness of any one of the many hundred negroes stowed in each ship could be brought before their view, and remain within the sight of the African merchant, that there is no one among them whose heart would bear it. Let any one imagine to himself 6 or 700 of these wretches chained two and two, surrounded with every object that is nauseous and disgusting, diseased, and struggling under every kind of wretchedness! How can we bear to think of such a scene as this? One would think it had been determined to heap upon them all the varieties of bodily pain, for the purpose of blunting the feelings of the mind; and yet, in this very point (to show the power of human prejudice) the situation of the slaves has been described by Mr. Norris, one of the Liverpool delegates, in a manner which, I am sure will convince the House how interest can draw a film over the eyes, so thick, that total blindness could do no more; and how it is our duty therefore to trust not to the reasonings of interested men, or to their way of colouring a transaction. "Their apartments," says Mr. Norris, "are fitted up as much for their advantage as circumstances will admit. The right ancle of one, indeed is connected with the left ancle of another by a small iron fetter, and if they are turbulent, by another on their wrists. They have several meals a day; some of their own country provisions, with the best sauces of African cookery; and by way of variety, another meal of pulse, &c. according to European taste. After breakfast they have water to wash themselves, while their apartments are perfumed with frankincense and lime-juice. Before dinner, they are amused after the manner of their country. The song and the dance are promoted," and, as if the whole was really a scene of pleasure and dissipation it is added, that games of chance are furnished. "The men play and sing, while the women and girls make fanciful ornaments with beads, which they are plentifully supplied with." Such is the sort of strain in which the Liverpool delegates, and particularly Mr. Norris, gave evidence before the privy council. What will the House think when, by the concurring testimony of other witnesses, the true history is laid open. The slaves who are sometimes described as rejoicing at their captivity, are so wrung with misery at leaving their country, that it is the constant practice to set sail in the night, lest they should be sensible of their departure. The pulse which Mr. Norris talks of are horse beans; and the scantiness, both of water and provision, was suggested by the very legislature of Jamaica in the report of their committee, to be a subject that called for the interference of parliament. Mr. Norris talks of frankinsense and lime juice; when the surgeons tell you the slaves are stowed so close, that there is not room to tread among them: and when you have

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it in evidence from sir George Yonge, that even in a ship which wanted 200 of her complement, the stench was intolerable. The song and the dance, says Mr. Norris, are promoted. It had been more fair, perhaps, if he had explained that word promoted. The truth is, that for the sake of exercise, these miserable wretches, loaded with chains, oppressed with disease and wretchedness, are forced to dance by the terror of the lash, and sometimes by the actual use of it. "I," says one of the other evidences, "was employed to dance the men, while another person danced the women." Such, then is the meaning of the word promoted; and it may be observed too, with respect to food, that an instrument is sometimes carried out, in order to force them to eat which is the same sort of proof how much they enjoy themselves in that instance also. As to their singing, what shall we say when we are told that their songs are songs of lamentation upon their departure which, while they sing, are always in tears insomuch, that one captain (more humane as I should conceive him, therefore than the rest) threatened one of the women with a flogging, because the mournfulness of her song was too painful for his feelings. In order, however, not to trust too much to any sort of description, I will call the attention of the House to one species of evidence, which is absolutely infallible. Death, at least, is a sure ground of evidence, and the proportion of deaths will not only confirm, but if possible will even aggravate our suspicion of their misery in the transit. It will be found, upon an average of all the ships of which evidence has been given at the privy council, that exclusive of those who perish before they sail, not less than 12½ per cent. perish in the passage. Besides these, the Jamaica report tells you, that not less than 4½ per cent. die on shore before the day of sale, which is only a week or two from the time of landing. One third more die in the seasoning, and this in a country exactly like their own, where they are healthy and happy as some of the evidences would pretend. The diseases, however, which they contract on shipboard, the astringent washes which are to hide their wounds, and the mischievous tricks used to make them up for sale, are, as the Jamaica report says, (a most precious and valuable report, which I shall often have to advert to) one principle cause of this mortality. Upon the whole however, here is a mortality of about 50 per cent. and this among negroes who are not bought unless quite healthy at first, and unless (as the phrase is with cattle) they are sound in wind and limb. How then can the House refuse its belief to the multiplied testimonies, before the privy council, of the savage treatment of the negroes in the middle passage? Nay, indeed, what need is there of any evidence? The number of deaths speaks for itself, and makes all such inquiry superfluous. As soon as ever I had arrived thus far in my investigation of the slave trade, I confesss to you sir, so enormous so dreadful, so irremediable did its wickeduess appear that my own mind was completely made up for the abolition. A trade founded in iniquity, and carried on as this was, must be abolished, let the policy be what it might, —let the consequences be what they would, I from this time determined that I would never rest till I had effected its abolition. Such enormities as these having once come within my knowledge I should not have been faithful to the sight of my eyes, to the use of my senses and my reason, if I had shrunk from attempting the abolition: it is true, indeed, my mind was harassed beyond measure; for when West-India planters and merchants retorted it upon me that it was the British parliament had authorized this trade; when they said to me, "It is your acts of parliament, it is your encouragement, it is faith in your laws, in your protection, that has tempted us into this trade, and has now made it necessary to us." It became difficult, indeed, what to answer; if the ruin of the West-Indies threatened us on the one hand, while this load of wickedness pressed upon us on the other, the alternative, indeed, was awful. It naturally suggested itself to me, how strange it was that providence, however mysterious in its ways, should so have constituted the world, as to make one part of it depend for its existence on the depopulation and devastation of another. I could not therefore, help distrusting the arguments of those, who insisted that the plundering of Africa was necessary for the cultivation of the West-Indies. I could not believe that the same Being who forbids rapine and bloodshed, had made rapine and bloodshed necessary to the well-being of any part of his universe. I felt a confidence in this principle, and took the resolution to act upon it: soon, indeed, the light broke in upon me; the suspicion of

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my mind was every day confirmed by increasing information, the truth became clear; the evidence I have to offer upon this point is now decisive and compleat; and I wish to observe with submission, but with perfect conviction of heart what an instance is this, how safely we may trust the rules of justice, the dictates of conscience, and the laws of God in opposition even to the seeming impolicy of these eternal principles.

I hope now to prove, by authentic evidence, that, in truth, the West Indies have nothing to fear from the total and immediate abolition of the slave trade: I will enter minutely into this point, and I do entreat the most exact attention of gentlemen most interested in this part of the question; the resolutions I have to offer are many and particular, for the purpose of bringing each point under a separate discussion; and thus, I hope, it will be shown, that parliament is not disposed to overlook the interests of the West Indies. The principle, however, upon which I found the necessity of abolition is not policy but justice—but though justice be the principle of the measure, yet, I trust, I shall distinctly prove it to be reconcileable with our truest political interest. In entering, therefore, into the next branch of my subject, namely, the state of slaves in the West Indies, I would observe, that here, as in many other cases, it happens that the owner or principal generally sends out the best orders imaginable, which the manager upon the spot may pursue or not, as he pleases. I do not accuse even the manager of any native cruelty, he is a person made like ourselves (for nature is much the same in all persons) but it is habit that generates cruelty:—This man looking down upon his slaves as a set of beings of another nature from himself, can have no sympathy for them, and it is sympathy, and nothing else than sympathy, which, according to the best writers and judges of the subject, is the true spring of humanity. Let us ask then what are the causes of the mortality in the West Indies:—In the first place, the disproportion of sexes; an evil, which when the slave trade is abolished, must in the course of nature cure itself. In the second place, the disorders contracted in the middle passage: and here let me touch upon an argument for ever used by the advocates for the slave trade, the fallacy of which is no where more notorious than in this place. It is said to be the interest of the traders to use their slaves well; the astringent washes, escarotics, and mercurial ointments, by which they are made up for sale, is one answer to this argument. In this instance it is not their interest to use them well; and although in some respects self-interest and humanity will go together, yet unhappily through the whole progress of the slave trade, the very converse of this principle is continually occurring.

A third cause of deaths in the West Indies is excessive labour joined with improper food. I mean not to blame the West Indians, for this evil springs from the very nature of things;—in this country the work is fairly paid for, and distributed among our labourers, according to the reasonableness of things; and if a trader or manufacturer finds his profits decrease, he retrenches his own expences, he lessens the number of his hands, and every branch of trade finds its proper level. In the West Indies the whole number of slaves remains with the same master. Is the master pinched in his profits? — the slave allowance is pinched in consequence; for as charity begins at home, the usual gratification of the master will never be given up, so long as there is a possibility of making the retrenchment from the allowance of the slaves. There is, therefore, a constant tendency to the very minimum with respect to slaves' allowance; and if in any one hard year the slaves get through upon a reduced allowance, from the very nature of man it must happen, that this becomes a precedent upon other occasions; nor is the gradual destruction of the slave a consideration sufficient to counteract the immediate advantage and profit that is got by their hard usage. Here then we perceive again how the argument of interest fails also with respect to the treatment of slaves in the West Indies. Interest is undoubtedly the great spring of action in the affairs of mankind; but it is immediate and present, not future and distant interest, however real, that is apt to actuate us. We may trust that men will follow their interest when present impulse and interest correspond, but not otherwise. That this is a true observation may be proved by every thing in life. Why do we make laws to punish men? It is their interest to be upright and virtuous, without these laws: but there is a present impulse continually breaking in

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upon their better judgment; an impulse contrary to their permanent and known interest, which it is not even in the power of all our laws sufficiently to restrain. It is ridiculous to say, therefore, that men will be bound by their interest, when present gain or when the force of passion is urging them: it is no less ridiculous than if we were to say that a stone cannot be thrown into the air, nor any body move along the earth, because the great principle of gravitation must keep them for ever fast. The principle of gravitation is true; and yet, in spite of it, there are a thousand motions which bodies may be driven into continually, and upon which we ought as much to reckon as on gravitation itself. This principle, therefore, of self-interest, which is brought in to answer every charge of cruelty throughout the slave trade, is not to be thus generally admitted. That the allowance is too short in the West Indies appears very plain also from the evidence; the allowance in the prisons I conceive must be an under allowance, and yet I find it to be somewhat less than this: Dr. Adair (who is not very favourable to my propositions, and who, by way of evidence, wrote a sort of pamphlet against me to the privy council) has said that even he thinks their food at crop-time too little; and I observe from governor Ord's statement that he accounts for their being more healthy at a less favourable season of the year, from their being better fed at the unfavourable season.

Another cause of the mortality of slaves is the dreadful dissoluteness of their manners. Here it might be said, that self-interest must induce the planters to wish for some order and decency around their families; but in this case also, it is slavery itself that is the mischief. Slaves, considered as cattle, left without instruction, without any institution of marriage, so depressed as to have no means almost of civilization, will undoubtedly be dissolute; and, until attempts are made to raise them a little above their present situation, this source of mortality will remain. Some evidences, indeed have endeavoured to disprove that there is any particular wretchedness among the slaves in the West Indies. Admiral Barrington tells you, he has seen them look so happy that he has sometimes wished himself one of them. I conceive that in a case like this an admiral's evidence is perhaps the very worst that can be taken. It is as if a king were to judge of the private happiness of his soldiers by seeing them on a review day. The sight of the admiral would, no doubt, exhilarate their faces; he would see them in their best clothes, and they, perhaps, might hope for a few of the crumbs which fell from the admiral's table; but does it follow that there is no hard treatment of slaves in the West Indies? the admiral's wish to be one of these slaves himself, proves perhaps that he was in an odd humour at the moment, or perhaps it might mean (for all the world knows his humanity) that he could wish to alleviate their sufferings by taking a share upon himself; but at least it proves nothing of their general treatment; and, at any rate, it is but a negative proof which affects not the other evidences to the contrary.

It is now to be remarked, that all these causes of mortality among the slaves do undoubtedly admit of a remedy, and it is the abolition of the slave trade that will serve as this remedy. When the manager shall know that a fresh importation is not to be had from Africa, and that he cannot retrieve the deaths he occasions by any new purchases, humanity must be introduced; an improvement in the system of treating them will thus infallibly be effected, an assiduous care of their health and of their morals, marriage institutions, and many other things, as yet little thought of, will take place; because they will be absolutely necessary. Births will thus increase naturally; instead of fresh accessions of the same negroes from Africa, each generation will then improve upon the former, and thus will the West Indies themselves eventually profit by the abolition of the slave trade. But, Sir, I will show by experience already had, how the multiplication of slaves depends upon their good treatment. All sides agree that slaves are much better treated now than they were thirty years ago in the West Indies, and that there is every day a growing improvement. I will show, therefore, by authentic documents, how their numbers have increased (or rather how the decrease has lessened) in the same proportion as the treatment has improved. There were in Jamaica, in the year 1761, 147,000 slaves; in the year 1787, there were 256,000; in all this period of 26 years, 165,000 were imported, which would be upon an average 2150 per annum, there being, on an average of the whole 26 years, 1 1-16th per cent. yearly diminution of the number of slaves on the island. In fact, however,

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I find that the diminution in the first period, when they were the worst used, was 2¼ per cent.; in the next 7 years it was 1 per cent.; and the average of the last period is 3-5ths per cent. It should also be observed, that there has lately been, on account of the war, a much more than ordinary diminution, which was the case also in the former war, besides that 15,000 have been destroyed by the late famine and hurricanes. Upon these premises I ground a conclusion, that in Jamaica there is at this time an actual increase of population among the slaves begun. It may fairly be presumed, that since the year 1782 this has been the case, and that the births by this time exceed the deaths by about 1000 or 1100 per annum. It is true the sexes are not altogether equal; but this difference is so small that if the proper number of women were added, the births to be expected in consequence would be no more than 300 per annum, which shows this to be a matter of little consequence. In the island of Barbadoes the case is nearly the same as at Jamaica. In St. Christopher's, there are 9600 females, and 10,300 males; so that an increase by birth, if the treatment is tolerable, may fairly be expected. In Dominica, governor Ord writes, that there is a natural increase, though it is yet inconsiderable, and though the smuggling in that island makes it not appear so favourably. In Nevis there are absolutely five women to four men. In Antigua, the epidemical disorders have lately cut off 1-4th or 1-5th of the negroes; but this cannot be expected to return, especially when the grand cause of epidemical disorders is removed. In Bermudas and the Bahamas there is an actual increase. In Montserrat there is much the same decrease as there has been in Jamaica, which is to be accounted for by the emigrations from that island.

Such, Sir, is the state of the negroes in our West India islands; and it is not only founded upon authentic documents from thence, but it is also confirmed by a variety of other proofs. Mr. Long, whose works are looked up to as a sort of West India gospel upon these subjects, lays it down as a principle, that when there are two negroes upon an island to three hogsheads of sugar, the work for them will be so moderate, as to ensure a natural increase; and there is now much more than this proportion. It can be proved too, that a variety of individuals, by good usage, have more than kept up their stock. But, allowing even the number of negroes to be deficient, still there are many other resources to be had — the waste of labour which now prevails—the introduction of the plough and other machinery—the division of work, which in free and civilised countries is the grand source of wealth—the reduction of the number of negroe servants, of whom not less than from 20 to 40 are kept in ordinary families — All these I touch upon merely as hints, to show that the West Indies are not bereaved of all the means of cultivating their estates, as some persons have feared. But, Sir, even if these suppositions are all false and idle, if every one of these succedanea should fail, I still do maintain that the West India planters can and will indemnify themselves by the increased price of their produce in our market; a principle which is so clear, that in questions of taxation, or any other question of policy, this sort of argument would undoubtedly be admitted. I say, therefore, that the West Indians who contend against the abolition, are nonsuited in every part of the argument. Do they say that importations are necessary? I have shown that the very numbers in the gang may be kept up by procreation. Is this denied? I say, the plough, horses, machinery, domestic slaves, and all the other succedanea will supply the deficiency. It is persisted that the deficiency can in no way be supplied, and that the quantity of produce must diminish? I then revert to that irrefragable argument, that the increase of price will make up their loss, and is a clear ultimate security. I have in my hand the extract from a pamphlet which states, in very dreadful colours, what thousands and tens of thousands will be ruined; how our wealth will be impaired; one third of our commerce cut off for ever; how our manufactures will droop in consequence, our land-tax will be raised, our marine destroyed, while France, our natural enemy and rival, will strengthen herself by our weakness. [A cry of assent being heard from several parts of the House, Mr. Wilberforce added,] I beg, Sir, that gentlemen will not mistake me. The pamphlet from whence this prophecy is taken was written by Mr. Glover in 1774, on a very different occasion; and I would therefore ask gentlemen, whether it is indeed fulfilled? Is our wealth decayed? our commerce cut off? are our manufactures and our marine

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destroyed? Is France raised upon our ruins? On the contrary, do we not see, by the instance of this pamphlet, how men in a desponding moment will picture to themselves the most gloomy consequences, from causes by no means to be apprehended? We are all, in this respect, apt sometimes to be carried away by a frightened imagination. Like poor negroes, we are all in our turn, subject to Obiha; and when we have an interest to biass us, we are carried away ten thousand times more. The African merchants told us last year, that if less than two men to a ton were to be allowed, the trade could not continue. Mr. Tarleton, instructed by the whole trade of Liverpool, declared the same: told us that commerce would be ruined, and our manufactures would migrate to France. We have petitions on the table from the manufacturers, but, I believe they are not dated at Havre, or any port in France; and yet it is certain, that out of twenty ships last year from Liverpool, not less than thirteen carried this very ruinous proportion of less than two to a ton. It is said that Liverpool will be undone—the trade, says Mr. Dalziel, at this time hangs upon a thread, and the smallest matter will overthrow it. I believe, indeed, the trade hangs upon a thread; for it is a losing trade to Liverpool at this time. It is a lottery in which some men have made large fortunes, chiefly by being their own insurers, while others follow the example of a few lucky adventurers, and lose money by it. It is absurd to say, therefore, that Liverpool will be ruined by the abolition, or that it will feel the difference very sensibly, since the whole outward-bound tonnage of the slave trade amounts only to one-fifteenth of the outward-bound tonnage of Liverpool. We ought to remember also, that the slave trade actually was suspended during some years of the war; nor did any calamity follow from it. As to shipping, our fisheries and other trades will furnish so many innocent and bloodless ways of employing vessels, that no mischief need be dreaded from this quarter.

The next subject which I shall touch upon, is, the influence of the slave trade upon our marine; and instead of being a benefit to our sailors as some have ignorantly argued, I do assert it is their grave. The evidence upon the point is clear; for, by the indefatigable industry and public spirit of Mr. Clarkson, the muster rolls of all the slave ships have been collected and compared with those of other trades; and it appears in the result that more sailors die in one year in the slave trade, than die in two years in all our other trades put together. It appears by the muster roll, to 88 slave ships which sailed from Liverpool in 1787, that the original crews consisted of 3170 sailors—of these only 1428 returned: 642 died, or were lost, and 1100 were discharged on the voyage, or deserted either in Africa or the West Indies. It appeared to me for a long time unnaccountable how so vast a proportion of these sailors should leave their ships in the West Indies; but I shall quote here a letter from governor Parry at Barbadoes to lord Sydney, dated May 18, 1788, transmitting two petitions; and which explains this difficulty:—"To the African trade on the coast I cannot venture to speak, not being sufficiently acquainted with it; but am fearful such monstrous abuses have crept into it, as to make the interference of the British legislature absolutely necessary; and have to lament that it falls to my lot to possess your lordship with the unpleasing information contained in the enclosed petitions, which is fully demonstrative of the shameful practices carried on in that unnatural commerce." He then speaks of having seen Captain Bibby, who is the person mentioned in the following petitions, though the other captain had endeavoured to prevent it; and, he says, he has sent back the pawns (mentioned also in the petition) to their enraged parents, adding, "That I cannot help having my suspicions; and I was yesterday told, that he had private instructions from the petitioners not to present the petitions to me, if Bibby would quietly resign the pawns; which leads me to believe there was a general combination in these unwarrantable practices among all the masters of the vessels then in Cameroons river." He then comes to the subject of the British sailors—"Your lordship," says he, "is perfectly informed of the nefarious practices of the African trade, and the cruel manner in which the greater number of the masters treat their seamen. There is scarcely a vessel in that trade that calls at Barbadoes, from which I have not a complaint made to me, either by the master or the seamen; but more frequently the latter, who are often shamefully used; for the African traders at home being obliged to send out their ships very strong handed,

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as well from the unhealthiness of the climate, as the necessity of guarding the slaves, soon feel the expense of seamen's wages; and as soon as they come amongst these islands, and all danger of insurrection is removed, the masters quarrel with their seamen, upon the most frivolous pretences, and turn them on shore on the first island they stop at, sometimes with, and sometimes without paying them their wages; and Barbadoes being windward station, has generally a large proportion of these men thrown in upon her; and sorry am I to say, that many of these valuable subjects are, from sickness and the dire necessity of entering into foreign employ for maintenance, lost to the British nation."

Thus do we see how Mr. Clarkson's account of the muster rolls is verified, and why it is that so vast a proportion of sailors in the slave ships are lost to this country. But let us touch also on the petitions which governor Parry speaks of; it seems that captain Bibby before mentioned had carried off from Africa thirty of the king's children and relations left in pawn with him, who retaliated by seizing five English captains. These captains dispatch a vessel with petitions to governor Parry, to send back the king's sons, in order to their own release. Now, Sir, let us mark the style of these petitions. "I James M'Gauty, I William Willoughby, &c. being on shore on the execution of our business, were seized by a body of armed natives, who lay in ambush in order to take us."—What villains must these Africans be, to seize so designedly such friends as the British subjects, and this merely with a view to get back their children! "This," says the petition, "they effected, and dragged us to their town, where they treated us in a most savage and barbarous manner, and loaded us with irons."—Observe, Sir, the indignant spirit of these captains; British freemen to be loaded with irons! White men in custody of these barbarous negroes? But what was the cause of this abominable outrage?—"On account," say they, "of the imprudent behaviour of captain Robert Bibby."—But what was the imprudence?—who carried off thirty pawns, who were the king's and traders' sons, daughters, and relations." Here, then, we have a picture of the equitable spirit in which this trade is carried on. These princes and chiefs, who, by captain Bibby's imprudence, had lost all their families and children, propose, however, to satisfy every demand, and to give these captains their liberty, provided only they may have their children back again. But, say two of the captains, "We, finding that we could not comply with their extravagant conditions, did endeavour to regain our liberty, which we effected. But we verily believe, that our respective voyages are entirely ruined, the natives being determined to make no farther trade with either of us, nor pay the above debts, until their sons, daughters, &c. are returned, and debarring us of wood, water, or any country provisions; therefore we shall be forced to leave the river immediately, and, on that account, we think our voyages ruined, as before."

It has been urged by some persons, in proof of the wicked barbarity of these kings and chiefs, that they pawn their own children; from which it is concluded, that they feel no sort of affection for them, and therefore deserve all the evils which we inflict upon them. The contrary is in truth the case; for the captains, knowing the affection they have for their relations, are willing to take them as hostages for very considerable debts, and are sensible of their ideal value, though the real value is trifling; and the scene which I have just laid before you, very fairly shows both the general spirit of our captains, and the wretched situation to which our commerce has reduced these African princes; and if, Sir, at the very moment when parliament was known to be inquiring into this trade, these abuses are thus boldly persisted in, how can we suppose that any regulations or any palliatives, can overcome these enormities, and justify our continuance of the trade? It is true, the African committee hear little of the matter; for we find, that even these captains, who were in prison, instructed the bearer of their petition not to apply to governor Parry, except in the last necessity, but merely to get back the king's sons, meaning quietly to compromise matters with captain Bibby; and if it were not for the vigilance of governor Parry, the truth would never have come out. In like manner, we find, that although very few sailors, when they come to Liverpool, go into an expensive prosecution of their captains, yet governor Parry hears of complaints against them every day; and we find, that justice Otley, in the island of St. Vincent, where law is cheap, both hears their grievances and redresses them.

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There is one other argument, in my opinion a very weak and absurd one, which many persons, however, have much dwelt upon, I mean, that, if we relinquish the slave trade, France will take it up. If the slave trade be such as I have described it, and if the House is also convinced of this —if it be in truth both wicked and impolitic, we cannot wish a greater mischief to France than that she should adopt it. For the sake of France, however, and for the sake of humanity, I trust, nay, I am sure, she will not. France is too enlightened a nation, to begin pushing a scandalous as well as ruinous traffic, at the very time when England sees her folly, and resolves to give it up. It is clearly no argument whatever against the wickedness of the trade, that France will adopt it: for those who argue thus, may argue equally, that we may rob, murder, and commit any crime, which any one else would have committed, if we did not. The truth is, that, by our example, we shall produce the contrary effect. If we refuse the abolition, we shall lie, therefore, under the twofold guilt of knowingly persisting in this wicked trade ourselves, and, as far as we can, of inducing France to do the same. Let us, therefore, lead the way; let this enlightened country take precedence in this noble cause, and we shall soon find that France is not backward to follow, nay, perhaps, to accompany our steps. If they should be mad enough to adopt it, they will have every disadvantage to cope with. They must buy the negroes much dearer than we; the manufactures they sell, must probably be ours; an expensive floating factory, ruinous to the health of sailors, which we have hitherto maintained, must be set up; and, after all, the trade can serve only as a sort of Gibraltar, upon which they may spend their strength, while the productive branches of their commerce must in proportion be neglected and starved. But I have every ground for believing that the French will not be thus wicked and absurd. M. Necker, the enlightened minister of that country, a man who has introduced moral and religious principles into government, more than has been common with many ministers, has actually recorded his abhorrence of the slave trade; he has, under his own hand, in his publication on the finances, pledged himself, as it were, to the abolition, and it is impossible that a man can be so lost to all sense of decency, and common consistency of character, as not to forward, by every influence in his power, a cause in which he has so publicly declared himself. There is another anecdote which I mention here with pleasure, which is, that the king of France very lately being requested to dissolve a society set up in France, for the abolition of the slave trade, made answer, "That he certainly should not, for that he was very glad it existed."

I believe, Sir, I have now touched upon all the objections of any consequence, which are made to the abolition of this trade. When we consider the vastness of the continent of Africa; when we reflect how all other countries have for some centuries past been advancing in happiness and civilization; when we think how in this same period all improvement in Africa has been defeated by her intercourse with Britain; when we reflect it is we ourselves that have degraded them to that wretched brutishness and barbarity which we now plead as the justification of our guilt; how the slave trade has enslaved their minds, blackened their character, and sunk them so low in the scale of animal beings, that some think the very apes are of a higher class, and fancy the ourang-outang has given them the go-by. What a mortification must we feel at having so long neglected to think of our guilt, or to attempt any reparation! It seems, indeed, as if we had determined to forbear from all interference until the measure of our folly and wickedness was so full and complete: until the impolicy which eventually belongs to vice, was become so plain and glaring, that not an individual in the country should refuse to join in the abolition; it seems as if we had waited until the persons most interested should be tired out with the folly and nefariousness of the trade, and should unite in petitioning against it.

Let us then make such amends as we can for the mischiefs we have done to that unhappy continent: let us recollect what Europe itself was no longer ago than three or four centuries. What if I should be able to show this House that in a civilized part of Europe, in the time of our Henry 7 there were people who actually sold their own children? what, if I should tell them that England itself was that country? what, if I should point out to them that the very place where this inhuman traffic was carried on, was the city of Bristol? Ireland at that time used to drive a considerable trade in slaves with these neighbouring barbarians; but a

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great plague having infested the country, the Irish were struck with a panic, suspected (I am sure very properly) that the plague was a punishment sent from Heaven, for the sin of the slave trade, and therefore abolished it. All I ask, therefore, of the people of Bristol, is, that they would become as civilised now, as Irishmen were four hundred years ago. Let us put an end at once to this inhuman traffic—let us stop this effusion of human blood. The true way to virtue is by withdrawing from temptation; let us then withdraw from these wretched Africans those temptations to fraud, violence, cruelty, and injustice, which the slave trade furnishes. Wherever the sun shines, let us go round the world with him, diffusing our beneficence; but let us not traffic, only that we may set kings against their subjects, subjects against their kings, sowing discord in every village, fear and terror in every family, setting millions of our fellow-creatures a hunting each other for slaves, creating fairs and markets for human flesh, through one whole continent of the world, and under the name of policy, concealing from ourselves all the baseness and iniquity of such a traffic. Why may we not hope, ere long, to see Hans-towns established on the coast of Africa, as they were on the Baltic? It is said the Africans are idle, but they are not too idle at least to catch one another: seven hundred to one thousand tons of rice are annually bought of them; by the same rule, why should we not buy more? At Gambia one thousand of them are seen continually at work: why should not some more thousands be set to work in the same manner? It is the slave trade that causes their idleness, and every other mischief. We are told by one witness, "they sell one another as they can;" and while they can get brandy by catching one another, no wonder they are too idle for any regular work.

I have one word more to add upon a most material point; but it is a point so self-evident that I shall be extremely short. It will appear from every thing which I have said, that it is not regulation, it is not mere palliatives, that can cure this enormous evil; total abolition is the only possible cure for it. The Jamaica Report, indeed, admits much of the evil, but recommends it to us so to regulate the trade, that no persons should be kidnapped or made slaves contrary to the custom of Africa. But may they not be made slaves unjustly, and yet by no means contrary to the custom of Africa? I have shown they may; for all the customs of Africa are rendered savage and unjust through the influence of this trade; besides, how can we discriminate between the slaves justly and unjustly made? Can we know them by physiognomy? or, if we could, does any man believe that the British captains can, by any regulation in this country be prevailed upon to refuse all such slaves, as have not been fairly, honestly, and uprightly enslaved? But granting even that they should do this, yet how would the rejected slaves be recompensed? They are brought, as we are told, from three or four thousand miles off, and exchanged like cattle from one hand to another, until they reach the coast. We see then that it is the existence of the slave trade that is the spring of all this internal traffic, and that the remedy cannot be applied without abolition. Again, as to the middle passage, the evil is radical there also; the merchant's profit depends upon the number that can be crowded together, and upon the shortness of their allowance. Astringents, escarotics, and all the other arts of making them up for sale, are of the very essence of the trade; these arts will be concealed both from the purchaser and the legislature; they are necessary to the owner's profit, and they will be practised. Again, chains and arbitrary treatment must be used in transporting them; our seamen must be taught to play the tyrant, and that depravation of manners among them (which some very judicious persons have treated of, as the very worst part of this business) cannot be hindered, while the trade itself continues. As to the slave merchants, they have already told you, that if two slaves to a ton are not permitted, the trade cannot continue; so that the objections are done away by themselves on this quarter; and in the West Indies, I have shown that the abolition is the only possible stimulus whereby a regard to population, and consequently to the happiness of the negroes, can be effectually excited in those islands.

I trust, therefore, I have shown, that upon every ground, the total abolition ought to take place. I have urged many things which are not my own leading motives for proposing it, since I have wished to show every description of gentlemen, and particularly the West-India planters, who deserve every attention, that the abolition is politic upon their own principles also. Policy, however, Sir, is

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not my principle, and I am not ashamed to say it. There is a principle above every thing that is political; and when I reflect on the command which says, "Thou shalt do no murder," believing the authority to be divine, how can I dare to set up any reasonings of my own against it? And, Sir, when we think of eternity, and of the future consequences of all human conduct, what is there in this life that should make any man contradict the dictates of his conscience, the principles of justice, the laws of religion, and of God. Sir, the nature and all the circumstances of this trade are now laid open to us; we can no longer plead ignorance, we cannot evade it, it is now an object placed before us, we cannot pass it; we may spurn it, we may kick it out of our way, but we cannot turn aside so as to avoid seeing it; for it is brought now so directly before our eyes, that this House must decide, and must justify to all the world, and to their own consciences, the rectitude of the grounds and principles of their decision. A society has been established for the abolition of this trade, in which dissenters, quakers, churchmen—in which the most conscientious of all persuasions have all united, and made a common cause in this great question. Let not parliament be the only body that is insensible to the principles of national justice. Let us make reparation to Africa, so far as we can, by establishing a trade upon true commercial principles, and we shall soon find the rectitude of our conduct rewarded, by the benefits of a regular and a growing commerce. I shall now move the several Resolutions, upon which I do not ask the House to decide to-night, but shall consider the debate as adjourned to any day next week that may be thought most convenient, viz. 1. "That the number of slaves annually carried from the coast of Africa, in British vessels, is supposed to be about 38,000. That the number annually carried to the British West-India islands, has, on an average of four years, to the year 1787 inclusive, amounted to about, 22,500. That the number annually retained in the said islands, as far as appears by the Custom House accounts, has amounted, on the same average, to about 17,500.

2. "That much the greater number of the negroes, carried away by European vessels, are brought from the interior parts of the continent of Africa, and many of them from a very great distance. That no precise information appears to have been obtained of the manner in which these persons have been made slaves. But that from the accounts, as far as any have been procured on this subject, with respect to the slaves brought from the interior parts of Africa, and from the information which has been received respecting the countries nearer to the coast, the slaves may in general be classed under some of the following descriptions: 1st, Prisoners taken in war. 2d, Free persons sold for debt, or on account of real or imputed crimes, particularly adultery and witchcraft; in which cases they are frequently sold with their whole families, and sometimes for the profit of those by whom they are condemned. 3d, Domestic slaves sold for the profit of their masters; in some places at the will of the masters, and in some places on being condemned for real or imputed crimes. 4th, Persons made slaves by various acts of oppression, violence, or fraud, committed either by the princes and chiefs of those countries on their subjects, or by private individuals on each other; or lastly, by Europeans engaged in this traffic.

3. "That the trade carried on by European nations on the coast of Africa, for the purchase of slaves, has necessarily a tendency to occasion frequent and cruel wars among the natives, to produce unjust convictions and punishments for pretended or aggravated crimes, to encourage acts of oppression, violence, and fraud, and to obstruct the natural course of civilization and improvements in those countries.

4. "That the continent of Africa, in its present state, furnishes several valuable articles of commerce highly important to the trade and manufactures of this kingdom, and which are in a great measure peculiar to that quarter of the globe; and that the soil and climate have been found, by experience, well adapted to the production of other articles, with which we are now either wholly, or in great part, supplied by foreign nations. That an extensive commerce with Africa in these commodities, might probably be substituted in the place of that which is now carried on in slaves, so as at least to afford a return for the same quantity of goods as has annually been carried thither in British vessels. And lastly, That such a commerce might reasonably be expected to increase in proportion to the progress of civilization and improvement on that continent.

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5. "That the slave trade has been found, by experience, to be peculiarly injurious and destructive to the British seamen who have been employed therein; and that the mortality among them has been much greater than in his Majesty's ships stationed on the coast of Africa, or than has been usual in British vessels employed in any other trade.

6. "That the mode of transporting the slaves from Africa to the West Indies necessarily exposes them to many and grievous sufferings, for which no regulation can provide an adequate remedy; and that, in consequence thereof a large proportion of them has annually perished during the voyage.

7. "That a large proportion of the slaves so transported, has also perished in the harbours in the West Indies, previous to their being sold. That this loss is stated by the assembly of the island of Jamaica at about four and a half per cent. of the number imported; and is, by medical persons of experience in that island, ascribed, in great measure, to diseases contracted during the voyage, and to the mode of treatment on board the ships, by which those diseases have been suppressed for a time, in order to render the slaves fit for immediate sale.

8. "That the loss of newly imported negroes, within the first three years of their importation, bears a large proportion to the whole number imported.

9. "That the natural increase of population among the slaves in the islands, appear to have been impeded principally by the following causes. 1st, The inequality of the number of the sexes in the importations from Africa. 2nd, The general dissoluteness of manners among the slaves, and the want of proper regulations for the encouragement of marriages, and of rearing children. 3d, Particular diseases which are prevalent among them, and which are in some instances attributed to too severe labour or rigorous treatment, and in others to insufficient or improper food. 4th, Those diseases which affect a large proportion of negro children in their infancy, and those to which the negroes newly imported from Africa have been found to be particularly liable.

10. "That the whole number of slaves in the island of Jamaica, in 1768, was about 167,000. That the number in 1774, was stated by governor Keith about 193,000. And, that the number in December 1787, as stated by lieut. governor Clarke, was about 256,000. That by comparing these numbers with the numbers imported into and retained in the island, in the several years from 1768 to 1774 inclusive, as appearing from the accounts delivered to the committee of trade by Mr. Fuller; and in the several years from 1775 inclusive, to 1787 also inclusive, as appearing by the accounts delivered in by the inspector general; and allowing for a loss of about one twenty-second part by deaths on ship board after entry, as stated in the report of the assembly of the said island of Jamaica, it appears, That the annual excess of deaths above births in the island in the whole period of nineteen years, has been in the proportion of about seven eighths per cent., computing on the medium number of slaves in the island during that period. That in the first six years of the said nineteen, the excess of deaths was in the proportion of rather more than one on every hundred on the medium number. That in the last thirteen years of the said nineteen, the excess of deaths was in the proportion of about three-fifths on every hundred on the medium number; and that a number of slaves, amounting to 15,000, is stated by the report of the island of Jamaica to have perished, during the latter period, in consequence of repeated hurricanes, and of the want of foreign supplies of provisions.

11 ". That the whole number of slaves in the island of Barbadoes was, in the year 1764, according to the account given in to the committee of trade by Mr. Braithwaite 70,706. That in 1774, the number was, by the same account 74,874. In 1780, by ditto 68,270. In 1781, after the hurricane, according to the same account 63,248. In 1786, by ditto 62,115. That by comparing these numbers with the number imported into this island, according to the same account (not allowing for any re-exportation), the annual excess of deaths above births, in the ten years from 1764 to 1774, was in the proportion of about five on every hundred, computing on the medium number of slaves in the island during that period. That in the seven years from 1774 to 1780, both inclusive, the excess of deaths was in the proportion of about one and one-third on every hundred, on the medium number. That between the year 1780 and 1781, there appears to have been a decrease in the number of slaves of about 5000. That

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in the six years from 1781 to 1786, both inclusive, the excess of deaths was in the proportion of rather less than seven-eighths in every hundred, on the medium number. And that in the four years from 1783 to 1786, both inclusive, the excess of deaths was in the proportion of rather less than one-third in every hundred on the medium number. And that during the whole period there is no doubt that some were exported from the island, but considerably more in the first part of this period than in the last.

12. "That the accounts from the Leeward islands and from Dominica, Grenada, and St. Vincent's, do not furnish sufficient grounds for comparing the state of population in the said islands at different periods, with the number of slaves which have been, from time to time, imported into the said islands, and exported therefrom. But that from the evidence which has been received respecting the present state of these islands, as well as of Jamaica and Barbadoes, and from a consideration of the means of obviating the causes which have hitherto operated to impede the natural increase of the slaves, and of lessening the demand of manual labour, without diminishing the profit of the planter, it appears that no considerable or permanent inconvenience would result from discontinuing the farther importation of African slaves."

Lord *Penrhyn* said, at that late hour of the night it was impossible for him to attempt to answer the hon. gentleman; one thing, however, he could not help noticing then, and that was, that the hon. gentleman had misrepresented so many articles with regard to the West Indies, in respect to its population, &c.; that no reliance whatever could be placed on the picture he had chosen to exhibit. In two or three instances, where he had mentioned Mr. Long, he had misquoted him, and over-looked many things essential to a fair state of the case. He did not mean to take up the time of the House then; but when they should be called upon to vote the propositions they had just heard read, he should offer his observations upon them, and upon the whole of the argument of the hon. gentleman.

Mr. *Gascoyne* said, he did not intend to go into a reply at that late hour; but there were some parts of the hon. gentleman's speech, which he would just notice. He meant the treatment of the Africans in their mid-passage to the West-Indies, and the mortality of the seamen. He had been glad to hear, that the whole of the propositions were grounded upon evidence to be found in the Report of the Privy Council. He had read that Report as carefully as possible, and there was scarcely an assertion which the hon. gentleman had hazarded, that was not contradicted by respectable authority referred to in the Report. The hon. gentleman had displayed great ingenuity as well as eloquence; and therefore, as there were other important witnesses besides those on whom the hon. gentleman had rested his facts, he had often been obliged to quote them, but never said much upon them. The hon. gentleman had alluded to something which he said last year, and that was, that with any thing under two Africans to a ton, the trade could not go on. The fact was so, and if the hon. gentleman thought the Bill of last year had produced no inconvenience, he was mistaken. If he were to see the numbers of sailors out of employ at Liverpool, and the quantity of ships laid up, he would not think the delegates had made a contradiction to what their witnesses had asserted at the bar of the House. He was glad to find that the hon. gentleman meant a fair, unqualified abolition of the slave trade. He only wished that the hon. gentleman had at once come to the vote he mentioned. He had voted on the question of right with the right hon. gentleman during the Regency discussion, and this was a question which, like that, ought to be decided. He added, that he was persuaded that the slave trade might be made a much greater source of revenue and riches to this country, than as it stood at present.

Mr. *Burke* said, he did not mean to detain the committee but for a very few minutes. He was not able, even if he had been inclined to it; but as from his other parliamentary duties he might not have it in his power to attend the business in its progress, he would take that opportunity of stating his opinion upon the subject. In the first place, he thought the House, the nation, and all Europe, under very great and serious obligations to the hon. gentleman, for having brought the subject forward in a manner the most masterly, impressive, and eloquent. Principles so admirable, laid down with so much order and force, were equal to any thing he had ever heard of in modern oratory; and perhaps were not excelled by any thing to be met with in Demosthenes. A trade begun with savage war, prosecuted with unheard-

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of cruelty, continued during the mid passage with the most loathsome imprisonment, and ending in perpetual exile and unremitting slavery, was a trade so horrid in all its circumstances, that it was impossible a single argument could be adduced in its favour. On the score of prudence nothing could be said in defence of it, nor could it be justified by necessity, and no case of inhumanity could be justified, but upon necessity; but no such necessity could be made out strong enough to bear out such a traffick. It was the duty of that House, therefore, to put an end to it. If it were said, that the interest of individuals required that it should continue, that argument ought not to be listened to. Supposing a rich man had a capital to a considerable amount lying by him, and every one, he observed, who had a large capital was a rich man; all capitals required active motion, it was their nature not to remain passive and unemployed; but if a large capital were employed in a traffic disgraceful to the nation, and shocking to humanity, it was the duty of that House to change its application, and instead of suffering it to be ill-employed, to direct it to be employed in some trade, at once advantageous in its end, respectable in its nature, and useful to mankind. Nor was it any argument to say the capital was already engaged in the slave-trade; for, from its active principle, when taken out of that trade, it would soon find employment in another channel. This had been the case with the merchants and ship-owners of Liverpool, during the American war; the African trade was then almost wholly lost, and yet the ship-owners of Liverpool had their ships employed, either as transports in the service of government, or in other ways.—After descanting on this point for some time, with great soundness of reasoning, Mr. Burke said, he could have wished that the business might have come to a conclusion at once, without voting the propositions that had been read to them. He was not over fond of abstract propositions. They were seldom necessary, and often caused great difficulty and embarrassment. There was, besides, no occasion whatever to assign detailed reasons for a vote, which, upon the face of it, sufficiently justified the House in coming to it. If the propositions should happen to be made, and not be carried in that House or in the other, such a complication of mischiefs might follow, as would cause them heartily to lament that they ever were voted. If the ultimate Resolution should happen to be lost, he declared he was afraid the propositions would pass as waste paper.—He reminded the committee, that it was necessary to look farther than the present moment, and to ask themselves, if they had fortified their minds sufficiently to bear the consequences of the step they were that night about to take. When they abandoned the slave-trade, the Spaniards, and some other foreign powers, might possibly take it up, and clandestinely supply our West-India islands with slaves. Had they virtue enough to see that, to bear the idea of another country reaping profits they had laid down, and to abstain from that envy natural to competitors in trade, so as to keep their virtue, steadily to pursue their purpose, and firmly to adhere to their determination? If so, let them thankfully proceed to vote the immediate abolition of the trade. But if they should repent of their virtue, (and he had experienced miserable instances of such repentance) all hopes of future reformation would be lost; they would go back to a trade they had abandoned, with redoubled attachment, and would adhere to it with a degree of avidity and shameless ardour, to their own humiliation, and to the degradation and disgrace of the nation in the eyes of all Europe. These were considerations well worth adverting to, before they took a decisive step in a business, in which they ought not to move with any other determination than to abide the consequence at all hazards. If they had virtue enough to act in that manner, they would do themselves immortal honour, and would see the abolition of the most shameful trade, that ever the hardened heart of man could bear. Viewing the traffic and all the circumstances of it, with the horror that the full view of it which the hon. gentleman had that day displayed, could not fail to excite in the breast of every man not dead to sensibility, he blamed not the hon. gentleman for knocking at every door, and appealing to every passion; well knowing, as the hon. gentleman had forcibly and correctly said, that mankind were governed by their sympathies. There were other passions, however, to be regarded; men were always ready to obey their sympathies when it cost them nothing. Were they prepared to pay the price of their virtue? The hon. gentleman had said, the West India planters would have a compensation adequate to the loss incurred by

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the abolition of the slave trade. He believed they would; but how they would have instant compensation for what they would lose, he could not conceive. In proportion to their loss, their virtue would be greater.—Having put this very forcibly, Mr. Burke took notice of the testimony of admiral Barrington, who had said, he envied the condition of the negroes in the West-India islands. The hon. admiral, he should rather suppose, meant, that as he had fought so often and so bravely for his country, he was determined to fight again, rather than suffer his countrymen to be made slaves. If, however, he was to be taken literally, his sensation could only be accounted for by his having seen the negroes in the hour of their sports, when a sense of the misery of their condition was neither felt by themselves, nor visible to others. Mr. Burke reasoned on this with infinite knowledge of human nature, great nicety of discernment, and great truth of observation. Nothing, he said, made a happy slave, but a degraded man. In proportion as the mind grew callous to its degradation, and all sense of manly pride was lost, the slave felt comfort. In fact, he was no longer a man. If he were to define a man, Mr. Burke declared, he would say with Shakspeare,

"Man is a being, holding large discourse,
"Looking before and after."

A slave was incapable of either looking before or after. Mr. Burke took notice of the reference which Mr. Wilberforce had made to the evidence delivered at the bar with so much ability by the late Mr. Glover, (the author of Leonidas), a gentleman who had fortified the learned world with works, that would preserve his reputation to future ages. That gentleman, he said, had told them at their bar the probable mischiefs that the American war would draw on their trade, and because, by a happy coincidence of circumstances, that mischief had not ensued to its full predicated extent, was the evidence of Mr. Glover to be despised and ridiculed, and was such a man to be treated as a false prophet? After dwelling upon this for some time, Mr. Burke said he would conclude as he had begun, with giving his hearty and sincere thanks to the hon. gentleman for his speech, and though he might not entirely approve of his mode of proceeding, he was ready to let him pursue his own course, be that what it might, and to give him every possible support.

Mr. *Pitt* said, that he could not help expressing his approbation of the right hon. gentleman's sentiments, with almost every one of which he cordially concurred; and when he differed at all, it was only as to those sentiments which the right hon. gentleman had stated with respect to the mode of proceeding, and the propriety of coming to the several distinct propositions, which were the grounds of the ultimate vote for an unqualified abolition of the slave trade. He returned his hon. friend, therefore, his sincere thanks for the manner in which he had brought the subject before the House, not merely in regard to the masterly, forcible, and perspicuous mode of argument which he had pursued respecting it, but particularly for having chosen the only way in which it could be made obvious to the world, that they were warranted in every ground of fact and of reason, in coming to that vote, which he trusted would be the end of their proceeding. He was satisfied, that no argument reconcileable to any idea of justice, could be given for continuing the trade in question; and he was perfectly clear that his opinion, at least the principles on which it was founded in his own mind, were unalterable; yet he was ready to hear all the arguments that could be offered by those who entertained different sentiments: being from all the attention he had been able to pay the subject, firmly persuaded that nothing but the obscurity of general notions, unfathomed and unexamined, could have hitherto prevented all mankind (those immediately interested in the question alone excepted) from agreeing in one and the same opinion on the subject. The real grounds of the proceeding, which he doubted not but that House would adopt, were stated distinctly in the propositions, which when put point by point would be found to be such as no people could venture to say No to, if they were not equally deaf to the language of reason and of undeniable fact. Let those propositions once be put upon the Journals of that House and it was almost impossible for them to fail. Persuaded as he was of the policy as well as humanity of the measure, could he have ever entertained any doubt of its success, still that would not have deterred him from persisting in its purpose. As to the mode by which the abolition of the slave trade was to be ultimately carried into effect, they were not at present to discuss it; but he trusted that it would not be found the means of

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inviting foreign powers to supply our islands with slaves by a clandestine trade, because, after a debt founded on the immutable principles of justice was found to be due, it was impossible but that the country had means to have it paid; and when once they had come to a resolution to abolish the slave trade, they were not to be prevented by any fears of other nations being tempted by the profit resulting from a commerce, which upon grounds of humanity and national honour they had abandoned, to carry it on in an illicit manner. Should that be the case, the language must be, that Great Britain had resources to enable her to protect her islands, and prevent that traffic being clandestinely carried on with them, which she had thought it for her own honour and character to abandon. It was their duty, and it should be their ambition, to take the lead in a business of so much national importance, and so much national credit; and he declared, he could not but have great confidence that foreign nations would be inclined to share the honour, and that if they were ready and willing to do so, they ought on their part, for the sake of the general good that would result from such a measure being universally taken, to forego the honour in their favour, and to be contented to follow as their imitators in so excellent a work. If they were disposed to set about it in earnest, foreign nations might be invited to concur with them, either by negociation immediately to be commenced, or by the effect that the propositions being put upon their journals would in all probability produce.

Sir *William Young* said, he wanted no inducement to concur in the hon. gentleman's proposal, if convinced of the truth of what he had brought forward; but at the same time, the right hon. gentleman who spoke last must know that if there were not great restrictions provided, there must be a clandestine trade carried on, and then the sufferings of the Africans would be ten times greater than any they now felt. This sir William explained, by stating the peculiar situation of several of our Islands, and the amazing hardships that the slaves must undergo in consequence of numbers of them being crammed into the holds of small vessels, and kept there while the vessels were obliged to keep hovering round the Islands, and watching an opportunity to effect a landing of their cargo. He said, the hon. gentleman who had opened the debate had taken no notice of the case of those who had lent money on mortgage upon the estates of the West-India planters. The decrease of negroes on those estates would decrease the value of the property of each, and consequently lessen the security of the mortgages. He said he was glad the hon. gentleman had brought the subject forward in the shape of distinct propositions, grounded upon the evidence in the report of the privy council.

Mr. *Fox* said, he had listened to the course of this debate with a pleasure equal to any he had felt during the progress of other important and well-conducted investigations. He added, that with regard to the plan of laying the propositions before the House, where he was agreed as to the substance of a measure he did not like to differ as to the form of it. If, however, he differed in any thing, it was rather with a view to forward the business than to injure it, or to throw any thing like an impediment in its way. Nothing like either should come from him. What he thought was, that all the propositions were not necessary to be voted, previous to the ultimate vote, though some of them undoubtedly were. In order to explain this he must beg leave to remind the hon. gentleman, that the propositions were of two sorts: one sort alleged the fit grounds on which the House ought to proceed to abolish the slave-trade, which were, that it was a disgrace to humanity, and that it was attended with the loss of lives to our seamen, as well as to the Africans. The other sort contained assertions in answer to the objections which either had been stated, or were supposed likely to be stated. The putting such resolutions on their journals might create a difficulty to foreign powers, because that which might be a matter of objection to Great Britain might not be so to any other country. He applauded Mr. Wilberforce for professing to do, what he thought it their duty to do, completely to abolish the traffic in slaves, a traffic, for continuing which, on no ground either a plea of policy or necessity could be urged. Wherever an effectual remedy could not be had, Mr. Fox said, he approved of a palliative, because something like a remedy was better than no remedy at all; in the present case, an effectual remedy was not only more desirable, but it was much less difficult to be obtained than a palliative. He was glad that the propositions were to be put upon the

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journals, because, if from any misfortune, the business should fail, while it stood upon the journals, it might succeed another year; certain he was, that it could not fail to succeed sooner or later. Foreign countries, when they heard that the matter had been discussed in that House, might follow the example, or they might go before us, and set one themselves. If this were to happen, though we might be the losers, humanity would be the gainer.—Mr. Fox reminded the House, that he had always been particularly sanguine, that whenever they examined the slave trade thoroughly, they would find it not only inhuman, but impolitic. From what the hon. mover had said, it was clear, there was as little policy as humanity in the trade. But he had risen chiefly to notice what had fallen from the Chancellor of the Exchequer respecting the probability of foreign nations assuming the slave trade on our abandoning it, and in an illicit manner supplying our West-India islands with slaves. He had intended to have risen to have said the very same thing, because he was convinced that it was the fit tone to be held upon such a subject, and that foreign nations should be given to understand, that when this country thought proper to abolish the slave trade, we had resources among us to prevent that trade from being carried on in any manner with our colonies. With the idea of an hon. baronet, who declared that a clandestine trade in slaves was worse than a legal one, he could not coincide. He thought, that such a trade, if it existed at all, should be only clandestine. A trade in human flesh was so scandalous, that it was to the last degree infamous to let it be openly carried on by the authority of the government of any country. He had sometimes been thought to use too harsh expressions of France, in treating her as the rival of this country. Politically speaking, France certainly was our rival; but he well knew the distinction between political enmity and illiberal prejudice. If there was any great and enlightened nation now existing in Europe, it was France, which was as likely as any nation on the face of the globe, to act on the present subject with warmth and with enthusiasm; to catch a spark from the light of our fire, and to run a race with us in promoting the ends of humanity. France had been often improperly stimulated by her ambition; he had no doubt, she would, in the present instance, readily follow its honourable dictates. He concluded with observing, that the business began auspiciously, and promised success.

Mr. *W. W. Grenville* (the Speaker) said, he should not do justice to his feelings, if he did not express to the House, and to his hon. friend, the satisfaction he had received from one of the most masterly and eloquent speeches he had ever heard; a speech which could not fail to reflect the greatest lustre upon his hon. friend, and entitled him to the thanks of that House, of the people of England, of all Europe, and of the latest posterity. Mr. Grenville thought, that a great advantage might be brought to the question from its being thoroughly discussed, and therefore he was peculiarly happy that his hon. friend had introduced the grounds of it in distinct propositions. With regard to our colonies, we were bound to assert our right, to prevent our islands from having, either directly or indirectly, any farther connexion with a trade, which we had thought it our duty to abandon, as unfit to be carried on. That was the proper tone to assume to all Europe on such a subject, and it was, besides, proper to let our dominions know, that it was in that view we considered it.

Mr. Alderman *Newnham* said, that though he wished as well to the cause of humanity as any man, yet, as a representative of the city of London, he could not give his consent to a proposition which, if carried, would fill the city with men suffering as much as the poor Africans. He conceived, that if wise regulations were applied to the slave trade, so as to cure it of the many abuses that he had no doubt prevailed in it, it might be made a source of revenue and material commercial advantage. If it were abolished altogether, he was persuaded it would render the city of London one scene of bankruptcy and ruin. Standing in the situation that he did in that House, he must suppress his feelings, and act upon motives of prudence. He therefore cautioned gentlemen not rashly and precipitately to put an end to a trade, so essentially advantageous as a branch of our national commerce.

Mr. *Martin* said, he was so well satisfied with what had been so ably stated by the hon. gentleman, who introduced the propositions, that he was more proud of being an Englishman, than he had ever been before. He was decidedly for an unqualified abolition of the slave trade, and he flattered himself the policy would

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be found to go along with the humanity of the measure. He hoped that no such effects as had been predicted would take place, but that the citizens of London had too much public spirit, to wish that a great national object should not take place merely out of consideration for their private interests.

Mr. *Dempster* said, there were petitions on the table, stating that private injuries would be felt to a considerable amount. He had therefore expected, that the first proposition would have been a proposition to make good, out of the public purse, all the losses individuals were liable to sustain from an abolition of the trade. That ought, in his mind, to have been the preliminary step. He begged to ask, had the hon. mover any plantation of his own? Had the two right hon. gentlemen any plantations? Undoubtedly they had not, neither had he any plantation. What right, then, had they to interfere with the interests of those who were planters? He did not like to be generous out of the pockets of others. It was recommended to them to abolish the slave trade on a principle of humanity; undoubtedly they owed humanity to all mankind; but they allowed justice to those who were interested in the event of the question, and had embarked their fortunes on the faith of parliament. The African trade had been considered by that House as so valuable, that they had preferred it to all others, and had annually voted a very considerable sum towards carrying it on. They had hitherto deemed it an essential nursery of our seamen, and had cherished it in consequence. Had it really been such as the hon. gentleman had represented it, our ancestors would not have encouraged it any more than they; and, therefore, he could not help thinking, that they would be wanting in their duty, if they abandoned it altogether. He declared, that sugar could be raised much cheaper by freemen than by slaves, and that it was a well-known fact that it might. In illustration of this, he stated the various comparative prices of sugars in Batavia, in China, and in other parts of the East, in some of which it was cultivated by slaves, and in others by freemen. He said there was one other point that was material, and that was our taking upon ourselves to provide for the West Indian planters, and to pronounce upon the means of cultivating their estates. The measure, in his mind, ought to have originated with them, and some petition should have been received from them, stating what there sentiments were upon the subject, and praying the House to take measures accordingly. The House might, if it pleased, prevent any British subjects from becoming slaves, but they could not, with any pretence of right, prescribe to the gentlemen of the West Indies by what hands their plantations should be cultivated.

Lord *Penrhyn* rose again, merely to prevent the committee from going away with an idea, that sugar could be cheaply cultivated by freemen. No such thing was practicable. It had been tried, and tried in vain. Notwithstanding the reveries, therefore, of the hon. mover, that speculation must be abandoned. There were mortgages in the West India Islands to the amount of seventy millions; the fact therefore was, if they passed the vote of abolition, they actually struck at seventy millions of property, they ruined the colonies, and by destroying an essential nursery for seamen, gave up the dominion of the sea at a single stroke.

Mr. *William Smith* said, he could not state his concurrence in the propositions, without testifying his heart-felt satisfaction at the manner in which the hon. mover had treated the subject. He said he wished the traffic to be fully examined, being satisfied that the more it was gone into, the more its total abolition would be found to be necessary and proper.

Mr. *Pitt* rose again, lest the house should separate with an idea that he acceded to the proposition of an hon. gentleman who had suggested the necessity of making a compensation for any losses that might be incurred by the people of Liverpool, or elsewhere; he could not reconcile the listening to any claim of that kind, to any one principle of legislation.

Mr. Alderman *Sawbridge* was not ready to say that it was expedient for this country to abolish the slave trade altogether; he thought under wise regulations, it might be rendered highly beneficial both to the commerce and revenue of the country.

The Chairman reported progress.

May 21. The other order of the day being read, for the House to resolve itself into a committee to consider further of the circumstances of the slave trade, complained of in the several petitions presented to the House in the last session of parliament; Mr. Wilberforce moved, "That the Speaker do now leave the chair."

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Mr. Alderman *Sawbridge* asked the hon. gentleman whether he meant to call any farther evidence in support of the propositions which he had laid upon the table, or to admit any evidence to be adduced by other gentlemen, to prove that the propositions were not sufficiently founded to warrant the House in proceeding upon them to the abolition of the slave trade?

Mr. *Wilberforce* said, that he had not the least intention of calling for any farther evidence, because he thought that the report of the privy council, and the other evidence before the House, sufficiently established every one of the propositions he had stated to the House, with regard to admitting evidence to be adduced by others, it was not for him either to admit or to deny any farther evidence of any kind or tendency.

Mr. Alderman *Sawbridge* said that the answer he had received had determined him to oppose the question, and to resist so rash and impolitic a measure as the unqualified abolition of the slave trade. Sufficient ground had not been made out for it, nor had that House before them any evidence upon which they ought to proceed. The object which gentlemen flattered themselves with, would not be obtained. Instead of serving the Africans, they would do them an injury, or they would no longer have control over them; and if they could not be sold as slaves, they would be butchered and executed at home. The hon. gentleman would likewise do great injury to the trade of this country, and was about to aim a furious blow at its commerce. He believed the African merchants were willing to submit to any regulations parliament might think it wise to apply to the trade, so that it were not abolished altogether. If the House grounded a bill upon so very important a subject on any other data than evidence examined at their bar, they gave up their inquisitorial power, and set a most dangerous precedent. So far from going blindly upon the *ex parte* evidence contained in the report of the privy council, they ought to take every evidence that could be procured, and possess themselves of every possible degree of information before they went a step farther; and therefore it was, that he resisted the motion for the Speaker's leaving the chair.

Mr. *Drake* said, that upon the present occasion, he should adopt the language of the comic writer of the ancients: "Homo sum: humani nihil à me alienum puto." No man could go farther than he would, in acting upon that sentiment; but the present subject involved in it considerations of so important a nature, that the House ought not to decide upon it without much previous discussion, and infinite deliberation. He was not present when the hon. gentleman introduced the subject, and stated the grounds of the opinion which he had formed upon it, in a speech which did the highest honour to his heart, his talents, and his eloquence. In his absence, he understood that a question had been put to the right hon. gentleman, that worthy and admirable minister, who might with propriety be termed the Necker of this country, which had received a direct negative. The right hon. gentleman, that great and good character, whom he loved dearly, that paragon of a financier, that paramount man, had declared, in the most explicit terms, that no compensation was to be given to those, who would suffer materially in their property by the unqualified abolition of the slave trade. This he considered to be in the highest degree unjust. Upon this ground, he could not avoid reprobating the measure. It was an unqualified, an immoderate, and a desperate expedient. No man was more ready than he was to vote away money, when that money was to come out of his own pocket, but he could not reconcile it to his conscience to be generous at the expense of others. Unless, therefore, the property of the country was committed to its fullest extent, in order to make compensation to those who were to be losers by the sacrifice to humanity, which some gentlemen were eager to make, he must give his vote against the Speaker's leaving the chair. He was convinced that the proposition for the total abolition of the slave trade was very prejudicial to the interests of Great Britain, as a political nation, nor should he sleep sound on his pillow, if the House agreed to it so precipitately.

Mr. Alderman *Newnham* said, that the report of the privy council ought not to be made a ground of proceeding in that House; not that he meant to cast any reflection on the privy council, or to suggest, that, in taking the evidence and forming the report, they had not acted with perfect fairness; but he conceived that every evidence stated to that House ought to be examined carefully, and that the House should also have the benefit of a cross-examination of the witnesses, which could

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not be the case unless they were examined at the bar of the House. He had presented a petition the other day, against the abolition of the slave trade, from the African merchants, and he well knew that they were perfectly ready to receive any regulation that the House should think proper to make, nor did the minister's pledging himself that nothing short of an entire abolition could cure the evils attending the trade, at all convince him that such was the fact. With regard to the property of the country being answerable for the losses that would follow the abolition, the fact was, that the loss must ultimately fall on the country, because the country in general would participate in those losses. If a severe blow were struck at the commerce of the country it would affect the landed interest and the funds. The hon. gentleman had said, that the French would run the race of humanity with us. Was this certain? Could it be determined that upon our quitting the slave trade, the French would not take it up? At any rate, we should make slaves cheaper to other countries. For these, and a variety of other reasons, he should object to the Speaker's leaving the chair.

Mr. *Powys* wished to know the mode meant to be pursued by the hon. mover, when the Speaker should leave the chair. He was sorry that his plan had not been sufficiently explained. If it had been clearly illustrated what he intended to introduce in the committee, gentlemen could easily have come to their determination concerning the propriety of the measure; but, as it appeared at present, an opinion could not be formed with that correctness necessary on such a momentous subject. The evidence now before the House he considered as partial, incomplete, and unsatisfactory. He had endeavoured to make up his mind on the occasion, but found it impossible. Why? Because he could not consent to any deviation from the usual rules of parliament. He could not admit the evidence of a privy council as competent for the House. Besides the resolutions had not been a sufficient time before the House. Hence he could not form any opinion on the subject. He acknowledged that from the information which had been produced during the last session, he was ready to give his consent to the introduction of a bill for the abolition of the slave trade. While, however, he made this confession, he could not acquiesce in an unparliamentary usage. Evidence ought to be called to the bar in the manner uniformly adopted. The evidence he must, as a member of parliament appointed to act as a guardian for his constituents and the nation at large, condemn. If the abolition of the slave trade was thought right, let the House not proceed upon erroneous principles. Let them call the merchants to their bar and demand their reasons for such a traffic. Let the House not deprive them of their trade without hearing them in their own vindication. He must demur to the precipitation which appeared, and considered himself bound to oppose the Speaker's leaving the chair.

Mr. *Rolle* disapproved of the evidence of the privy council as unparliamentary and irregular. He considered the question for the abolition of the slave trade as one of great importance to the interests of the country; one that concerned all Europe, the subjects of which were now waiting with anxiety for the determination of the House. He had been instructed by his constituents to oppose the propositions; but, had he not received their instructions, he should, from his own conviction, have acted in the same manner. He hoped gentlemen would not proceed with precipitation. He intreated them to pause and seriously consider the fatal tendency of the measure to our commerce, and to our importance as a great political nation. He was resolved to hear every kind of evidence that could be produced, and therefore he should oppose the Speaker's leaving the chair.

Mr. Alderman *Watson* said, that as the question was of the utmost importance, it ought not to be decided upon but from the fullest and most satisfactory evidence. It behoved the House to recur to testimonies of every nature connected with a point of such consequence.

Mr. *Henniker* earnestly pressed upon the House the necessity of fully investigating the particular state of the slave trade previously to their decision concerning the propositions. He declared that in his opinion proper regulations might answer every necessary end of humanity, and that the trade might still be maintained. He said, that he held in his hand an original letter from the king of the Dawhomayians, a people inhabiting a district of Africa, 300 miles inland from the sea. This letter had been sent to king George I.; and had been found among the papers of James, the first duke of Chandos, who

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had been governor of the African company. It had descended from the late duke to the present, and was by the present duke put into his (Mr. Henniker's) hands. He then read the letter as follows:

"From my great and principal palace of Abomey in the kingdom of Dawhomay and empire of Pawpow. January 1726,

"Great Prince;—Being informed and sensible of your mighty warrs, grandure and pewer over other white kings and kingdoms, makes me send home your subject Bulfinch Lambe whom wee call Yewo or white man, not haveing or ever had any in our kingdoms before; though my brother and father before me made considerable offers to the kings of Ardah, Whidah and Jacquin, to permit and encourage one to come to us that wee mought see what wee had so much heard of, and look upon, as it ware allmost eaqual to our gods, though many of my common subjects never thought of such people being in the world, till I made a captive of the said white man, att my conquest over the great king and kingdom of Ardah; my country being from the great watters or sea about 300 miles, which we nev any of our subjects was ever permitted to come to see, (unless when made slaves of) for it was impossible to come thare without passing through the countrey of the then great king of Ardah also the Widah's or Jacquin's countrey, which they would not permit.

"I hope this may be a means of making me known to your Majesty and tradeing subjects to these parts, and as a token of my desired friendship and alliance send by him to your Majesty, a present of fourty slaves, and if you desire it fourty times fourty are at your service; the other fourty which I have given him, he is to make use of as he think fitt, to enable him to return to me again, and bring back with him his linguister Adome Oronoco Als Captain Tain, for whom I have a great vallew. Your African company, of which I understand you are the chief, I am informed dose not trade so much as usal, by reason they want your friendship and encouragement, as formerly they had from your predecessors; but now hope and begg you'l promoate trade to these parts, and they shall find much better usage and treatment than they did in the reign of the arbitrary king or emperor of Ardah and Jacquin, &c.

"I am mightily surprised ate one thing this white man tells me amongst others which is that hereafter thare will be a restitution of all things, no more warrs, no more trade, nor no more people, die wee must, that wee see daily, but the other startleth me; for after death wee certainly believe wee shall be something in the other world as well as this, and who shall be afraid to die which is a thing so common.

"I mutch admire the white man's way of corresponding, by way of writing, the knowledge of with and other things your God has given you beyond us, by which means you know his ways, wee think and believe him to be the greatest of gods, and that he has appointed our gods or feteashes to rule, govern, direct, kill or destroy us as wee act.

"But wee think it very strange that your God, laws and customs comme so great a king to one wife, and that the women have and are allowed so much power as wee here; they are even to reign over men—but no more of that, customs of countries differ.

"This white man I have detained near this three years, to informe me as much as he could of your manners, customs, and laws, and withall till I had subdued other petty kingdoms, and made myselfe sole monarck down to the sea; and then in land I have worke enough for many years, so that thare will nor shall be any want of slaves.

"I have yet that proud king and people of Widah to subdew, who vainly think themselves above my power; but I'le let them see thare is no withstanding the Dawhomays unless thare own gods fight against them.

"By this white man's means or persuasions, I have desisted for this year past, and have likewise forborne going on Jacquin (who since have submitted themselves, and become tributary to me), he telling me that it would be a discouragement to trade, and I should frighten away the white men, for whom I have great vallew; but now I find I have no way to bring the Widahs under but by foarce, it must be done, and when I send my general and captain of war on an arrent, they must not com back without success.

"My grandfather was no warryer, and only enlarged his dominions by conquering one kingdom; my father nine; but my brother fought seventy-nine battles, in which he subdewed several petty kingdoms; but myself have fought two hundred and nine battles, in which I have

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subdewed many great kings and kingdoms, some of which are continually revolting and keeps me employed.

"By computation I can send near 500,000 armed and well-skill'd man to battle, that being what all my subjects are bread to (but the women stay at home to plant and manure the earth). I also keep a suffitcient number of armed forces about me, least I should be attacked or surprized from the northward, eastward, or westward, and my army gon to the southward.

"Both I and my predecessors ware, and are, gret admirers of fire armes, and have allmost intirely left of the use of bows and arrows, though much nearer the sea use them, and other old fashoned weapons, as scragged spears, and a short sort of batt or stick, with a large nobb at the end, which they so dextereously throw, that whatever it hits, it prodigiously bruses and wounds; but we think none better than the gunn, and a nerse sorte of muskeet, or cutlass, which wee make ourselves, and will cleave as a broad axe.—Could wee but come into the secret of making powder, or be better supplyed, I should spent vast quantities in my diversion, haveing, at the conquest of Ardah, taken severall pieces of canon, which was thought a great thing to be brought up so far as thare; but my people brought them up to me, with severall others I have since purchased, which has been very difficult and troublesome to bring by hand, so farr in-land; but my people stick or stop att nothing to serve me, for I reward them well, and punish them well, according to there deserts, a rule with me in government.

"As I acknowledge you the greatest of kings, under your union flag, which I have taken upon me to hoist, I drink your Majesty's health, and should oftner, only I am obliged allways to keep a sufficient magazine of powder, for fear of being attacked by some great countries, which are beyond and wide of me; but as they are att a vast distance, and must be a considerable time a-coming, I have always time to prepare to receive them, as wee did in my brother's reigne, the great Nullow Yowzie Coontow Hallecowtrode Trapa, king of Wimey, who with his army of severall hundred thousands, were destroyed (myself being then head general.) The king's head we have preserved to this day; with flesh and hare on; the head of his generalls wee distinguished by giving them place on each side of the doors of our feteash houses; and his under captains of warr's heads have paved all before the doores; and the head of the common soldiers we shatt round the walls of the palace of our ancestors, as close as they can lye one by another; and since that I have been so fortunate in warr, that I have not only compleated that (which is in circumference about three miles) but three-fourths of my owne house before I was king, which is about a mile and a half round, and hope in time to complest the out walls of all my great houses in the same manner, which are in number seven, and containes my wifes, which are in number at least as many thousands, besides household slaves, but no man sleeps within the walls of any of them after sun-sett but myselfe.

"My houses under myself is entirely govern'd by my chiefe wifes, with all the ease imagineable, unless dore-keepers and thare assistants, who are always a robusk sort of women slaves. I have no disturbance or controversies whatever, either amongst my wifes or other subjects, every one knowing thare duty, place, and station, for if any transgress against my laws or customs, or att least them of my fore-fathers, thay must suffer by death, and sometimes not in my power to save them, without violating the laws of my gods, kingdom, and predecessors, and bring thare curse on me and country: however I never give sentence without sufficient proof, or the gods convicting them by thare taking the feteash, and after that I sometimes endeavour to make it up by thare contrition, and some offerings to the gods and my deceased relations, who, wee firmly believe, has a power of revenging any wrongs done to them by violating the laws and customs of thare country and ancestors, and that it is in thare power also to prosper us or frustrate our designs, nay even to take away our lives.

"I hope you, or att least your trading subjects, will send me back this white man as governor, or chief over other white men and woman, to live in my country, and thay shall have as many of my subjects as they desire to assist them in building a castle, fort, house, or houses, as thay shall think fitt and convenient for trade.

"When I send my forces against Widah, as I fully propose to do, I shall give orders to my generalls to take care not to hurte

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any of the white mans goods or persons, if they keep in thare fort and factory: but if they come in a warrlike manner to assiste the kings and people, and happened to be kill'd and wound, must not blame me or people.

"This white man will informe your merchants traders to my country what I desire and is fitt for me, for thare is nothing so costly, rich, and fine, but what I'le purchase, even to a thousand slaves for any single thing (that may be worth it), he knows what I'le like, besides the common commodities, as guns, powder, cowries, our moneye, &c.

"For as I hear you are the greatest of white kings, so I think myself the greatest of black ones or emperor, having now of many kings under me, who dirste not come into my presence without falling flatt on the ground, and rubbing their mouth nine times in the dust before they opens it to speak to me; and when I confer any dignities or favours on them, wipe the soles of my feet with the haire of their heads, throwing dust over themselves, and makeing the very skies ring with thares and there peoples acclamations; but this only as to my owne people and subjects; as to the white man, he always satt in a chaire in my presence as I did, and always shewed him the same compliments as he shewed me, and shall continew to all white man the same, according to their stations.

"My customs differ very much from them of the kings of Ardah, for they, after being made kings, never went out of doores, or abroad to be seene by the common people, but always indulged and diverted themselves in the small compass of thare palace amongst there wifes, who was under the care att other times of there evenucks; and at the conquest of that country I took several of them along with his wifes; the woman I thought good to add to my owne, as we esteem ourselves, and are look'd upon by all neighbouring nations the greater and richer the more we have; but as to evenucks (a useless sort of fellows) I gave them back to his son with some thousands of his old people and relations. On my restoring him to his kingdom, which is now tributary to me, with the rest of his dependant kingdoms, nine of whose princes came in one month to be re-enstated by me, which I did with the same ceremony as formerly done by the kings of Ardah, which is as follows, viz. Being assembled, they signify to some of them, that they are come to submitt themselves and countrys to me, and that for ever after they will owne no one to be the great king or emperor, but me and my succesors, deny any allegiance to the king of Ardah, which was killed in the conquest, and now, as it ware in the bushes, pretends a write of being the great king or emperor, though I have gott it by force of arms, and the son of the late king has been made by me in the same manner as the rest; but if he has not a great care, he and his adherents may chance to share the same fate as his brother did, for I'le have his head if possible; but as to the ceremony, it being signified to me as before, I order a silk gound, hatt, chair, and soard to be brought out but by separate persons, and carried before me to the prince who is to receve them, upon which two of my old oves or judges veste him with the gounde and hatt, then I seat him in the chaire and deliver to him the soard, wich he is to be assistant to me with, and defend his country against any of our enemies; this being done, he rises from the chaire, falls on the ground, and kisses it nine times, and between every three, clapping his hands in a very regular manner, the same is done by all his caboshiers and people about him, which I answer by a claping of my hands standing; after this he remains on his knees, or sitting or lying on the ground, for he's not to sit on any thing above it in my presence; after that time, the chaire being for his own house amongst his own subjects; after this I dismiss him with giving him and people severall presents of clauth, corall, brandy, pipes and tobacco, and a sume of money to bear their expences home, they being pleased with the reception they mett with, and I with having added a kingdom to my dominions.

"We have a custom, which is quite contrary to Ardahriens—I am obliged to go out at different times in the year, and strow great quantities of goods and money amongst the common people, and make sacrifices to our gods and forefathers, sometimes of slaves (which custom I have much broke) sometimes of horses, other times of oxen, and other creatures.

"I very often besides love to go abroad about eight or ten miles an end, in what is call'd by the Portuguese a superentine; not but that I have many fine chaires, but do not like to trust to my people's carrying them, not being so much used to them as the other. When I am out I fix my-

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self under some great shadey tree; whare I view what number of armed people I have ready in two or three hours; by this time up comes two or three hundred of my inferior wifes, the chief favourites being about my person in sundry stations, some to fan and cool me, others to keep the flies away with whisks, others holding my armes, as guns, pistols, and sabre, &c. others again holding kedysalls or humbrellows, which stand on the ground and make a canopy over my chaire, and another to fill and light my pipe, which being done, I order the aforesaid bands of women to be unloaded, who have each a case of brandy, though cloathed in crimson, green, blue, and black velvett and fine silks, and arrayed with great quantities of large corall (for my slaves buy me things of all nations.) Besides, I have many fine things which comes over land, by a people which are called Mallays, and are, in comeing some months; there religion are Mahometans (and tells me that near the sea, on the other side, are a sort of white man; I have many of these people in my country, and follow thare several occupations as well as trading, in which I give them great encouragement (as I do to all strangers.) I have appointed a governor or petty king of their owne over them; these ware the people who some of them used to go down to Whidah and Jacquin, and come back and give us an account of the stranger manner of ships and white man coming to trade thare, which we long found to be true by thare gunns, powder, and all sorts of goods being brought from market to market.

"But to return:—when I have smoked my pipe, and my people have pretty well exercised themselves in activety of body, by running, leaping, and firing thare arms, as if engaged, I order my brandy to be distributed, which is soone made away with, and then the sun being pretty well gon, I return home with the acclamations of my people, with my drums beating, and hornes of different sortes sounding, with other sortes of my country music, in wich I have great numbers day and night continually imployed about my house.

"I shall not troble you much more on these things, but hope to hear from your Majesty per the aforesaid white man, who has promised me to return, and bring back with him his aforesaid linguister, Captain Tom, who is one of the king of Jacquin's family, who I took likewise at Ardah with him, and being desirous to go and see England, I send him, that on his return, unless death prevents, he may give me a large account of your Majesty countries and dominions; and that he may the better qualify himselfe for the great post of Yewo Gah Als, Captain Blanco, or the white man's caboshiere, which I designe to give him on his return, and hope that he'l be more fitt and capable to answer the white man's endes than any one heretofore, knowing thare ways and customs.

"So one more hopeing your Majesty, the company or trading subjects will not fail to send me back this white man, who is now to me as much as my son, whom I design shall succeed me, and whoever comes with him shall not want encouragement; neither shall any ship that comes by his means, and to him, pay any tribute or customs to me, as they did to the king of Ardah, for six years after his arrival att Jacquin or Dawhomay.

"He can informe you more att large of my wars, conquests, greatness and grandure, though a black; so shall take leave, and hope your God will always prosper your wars and undertakeings, and committ the said white man to his and your care, for I shall not faile (as I have already done) to offer sacrifices to mine continually for his preservation and safe return, with assurances to them that on it I will give for that purpose oxen, hoggs, sheep, and goats, &c. and shall be more rejoiced att it, then att the greatest battle or conquest I ever won; so I remain, with the most profound respect, as the Gods have made us blacks to serve you, great Prince, your Majesty's most faithful and obedient friend, humble servant,—*(Signed)*—Trudo Audato Povesaw Daujerenjon Suveveto Ene-Mottee Addee Pow, a Powlo Cow Hullow Neccresy, Emperor of Dawhomay.

"P. S. Could I write my own hand, or explain myself as I would, I should say a great deal, but believe this white man has done it as much as possible."

Having read the letter, Mr. Henniker said, that far from admiring the writer, he thought him a detestable character. The facts, however, mentioned in the letter, afforded an unanswerable proof, that the Africans were naturally inclined to barbarity, since the horrid practices which he had read an account of, were committed by a prince and people resident 300 miles distant from the sea, and who

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consequently could not have been taught by Europeans to act such scenes of cruelty; and hence he inferred, that the cruelties practised at this day on the African slaves by those of their own country who made them captives in war, were not imputable to our commerce with them, but that if we did not take the slaves off their hands, the miserable wretches would suffer still more severely. He concluded with the following quotation from the speech of Cicero on the Manilian war:—"Aguntur certissima populi vectigalia et maxima; quibus amissis, et pacis ornamenta, et subsidia belli requiretis: aguntur bona multorum civium quibus est, et à vobis, et ab imperatoribus reipublicæ consulendum."

Mr. *Courtenay* said, that every argument which had been advanced, went in support of the motion. Some gentlemen had declared that the evidence was unsatisfactory. This assertion certainly favoured the motion, the committee being the only place for the correction of incompetent evidence. Others again said, that the evidence now before the House was contrary to the usage of parliament; that a fuller examination ought to take place at the bar of the House. These arguments likewise favoured the motion. He, for his part, was convinced, that the evidence of the privy council which had been printed, was in every respect satisfactory. With regard to the danger likely to result from the abolition of the trade, he must likewise declare, that he entertained a contrary opinion. It could not be detrimental to the finances of the country; it could not be detrimental to our commerce; for the merchants might easily turn their attention to other objects of traffic.

Mr. *Vyner* said, that as he had been the person who, on a former most solemn occasion, had called upon the House not to rely implicitly on the evidence stated in a report of the privy council, and as he had then called upon them with success, he hoped, in like manner, again to succeed, when he advised them by no means to rely on the report now on the table. There was, he admitted, some difference between the circumstances attending the two reports. The former report, respecting the King's illness was, indeed, a report of evidence delivered before one of the largest privy councils that ever was summoned; whereas the present report was a report of evidence adduced before a select privy council, and perhaps it was not the better on that account. Be that as it might, the House ought to have such evidence before them, as had been either delivered at their own bar, or before one of their own committees. As he was not determined in his own mind how he ought to vote, he therefore wished the subject to be fully discussed.

Viscount *Maitland* said, that if the House did not hear evidence themselves, but relied on the report of the privy council, they would abandon their privileges, and furnish an example fundamentally injurious to their own rights. The African merchants had great reason to complain. They had embarked their fortunes in the slave-trade upon the faith of the legislature; the legislature was therefore bound to protect them. What was it that gave the British merchants security over the merchants of every other country? It was their knowledge that they were secure in the trade they were carrying on, because parliament had encouraged them to enter into it, and they were sure the parliament would never put an end to that trade without a full investigation into all its circumstances. He put the case, that a Frenchman should ask him, why the merchants of England had peculiar advantages? His answer would be, no law can pass respecting them without their being heard, and every possible evidence gone into. But, if a French merchant happened to be in England, and was aware, that upon so important a topic no evidence was heard at the bar of that House, he would say, "why, you are no better off than we are; here is a great question in discussion, and so far from your being heard, the House of Commons call no witnesses and hear no evidence." Before the House proceeded to take the rash step that they were recommended to take, he earnestly advised them to attend to the consequences. The precedent might be followed in cases of a more important nature, and by degrees the House might lose its inquisitorial rights and functions altogether. From the body of the evidence before them, he could give such symptoms of deficiency, as would, he trusted, be sufficient to shew, that they ought not to rely on the report at all. He should, therefore, oppose the Speaker's leaving the chair.

Mr. *Pitt* saw no reason why they should delay going into the committee. The noble lord was pleased to suppose, that it

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was irregular in the House to proceed upon evidence given in any other manner than delivered *viva voce* at their bar, and to contend, that to regard any evidence given before others, and in another shape, was to surrender their privileges as a House of Commons. Had the House resolved to receive no evidence on a given subject, but from the privy council, that would, indeed, be to strike at the House of Commons; but to say that the House could on no occasion receive evidence, taken where it was most convenient to take it, and every part of that evidence subject to new investigation, was certainly not correct. Unless it was really meant to say that the House would not inquire into what it had pledged itself to examine, he saw no reason for not going into the committee.

Sir *Grey Cooper* confessed himself a friend to the inquiry. He thought, however, that the representatives of a generous and brave people might be carried by too rapid steps to the adoption of a measure which introduced such novelty in the commercial concerns of the West Indies. Men distinguished for philanthropy, might be hurried to the adoption of a measure which tended to the injury of our West-India islands. He confessed he entertained much doubt and perplexity on the subject.

Mr. *Fox* expressed his astonishment at perceiving the strange and unwarrantable manner in which the question then before the House was treated, but most of all was his surprise excited when he heard a noble friend of his put it on the ground of the propriety of admitting the evidence then before them. He had been so much used to a particular sort of application in another place, that he trusted he should stand excused if he used a technical expression. Whatever, therefore, might be the opinion of evidence elsewhere, in that House the distinction was tolerably well understood between the admissibility of evidence, and its sufficiency. That the report of the privy council was admissible evidence no man could deny; but if it were not, the opportunity of objecting to it had long since gone by, because the fact was that the report had been received by the House five weeks, and if objected against at all, it ought to have been objected against when it had been first presented. He never had heard that it was a rule, that no regulation of commerce should be adopted without entering into evidence at the bar; he well knew, that there was a standing order, that no regulation of commerce should be entered into without its being first submitted to the consideration of a committee; and the reason obviously was, that the committee might inquire into the propriety of the proposed regulation, and report the result of their inquiries to the House. With regard to the abolition of the slave trade, he felt no difficulty in saying, that without having seen one tittle of evidence, he should have been for the abolition. He agreed perfectly with the right hon. gentleman opposite, that the gentlemen who opposed this did it in a singular mode, and he thought that the reason was because that they felt their cause to be so disgusting that they attempted to effect a purpose by a round-about way, or by a side wind, which they could not bring themselves to avow, and try to do directly and fairly. With regard to a regulation of the slave trade, a detestation of its existence must naturally lead him to remark that he knew not of such a thing as a regulation of robbery or a restriction of murder. There was no medium; the legislature must either abolish the trade, or avow their own criminality. But the sort of conduct which had been adopted that day, was obviously done with a view to put an end to inquiry.

Mr. *Marsham* said, he did not expect to have heard the planters and proprietors of estates in the West-India islands treated so harshly as they had been that day. With regard to the evidence contained in the report of the privy council being an *ex parte* evidence, it certainly was so. If he knew what *ex parte* evidence was, it was an evidence taken on one side of a question only, where there was no opportunity of cross-examination afforded.—That was the case with the report on the table. He was sorry to see the two most considerable men in that House, before the matter had been properly considered, plunge so desperately into the business. He thought the hon. gentleman ought to produce witnesses at the bar to prove his facts; and if he did not, he thought the West-India planters ought to produce evidence on their part to refute the assertions on the other side. He had thought a good deal upon the subject, and had balanced the matter with much caution, before he made up his mind. If he had felt that the cause of humanity would have been essentially served by the aboli-

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tion of the Slave Trade, whether he was a West-India planter, or any other ways connected with the trade, he would most willingly have gone among the foremost in endeavouring to get it abolished, but that not appearing to his mind to be likely, he would not be afraid of doing his duty, though he should in consequence expose himself to all the obloquy, that in a moment of popular phrensy, any man who opposed the abolition, ran the risk of encountering.

Mr. *Cruger* was for the Speaker's leaving the chair, because it would give the House an opportunity of refuting what were, on a former day, considered as misrepresentations. As to the show of benevolence, and the motives that actuated gentlemen, he hoped and wished to be among the foremost in the cause of humanity, and in opposition to every species of oppression; but he thought, at the same time, if the House was determined, at all hazards, to carry these propositions, it would become the justice of the nation to repair such losses as might be sustained by the merchants and planters from the abolition of the trade; otherwise gentlemen might be justly considered as liberal, or even ostentatious, in their sacrifice to the cause of humanity, at the expense of others. As the honour would be national, whatever losses might arise from it should not fall on a particular class of individuals, but be national also. In that case, they must think of raising a fund of at least 60 or 70 millions sterling. Mr. Cruger said, he had also heard of emancipating all the slaves in the West-India islands. Was that a part of the project? He was well persuaded, that whoever offered any thing in favour of the slave trade, or engaged in it, had invincible prejudices to encounter. The people had been taught to associate every thing cruel and oppressive with the idea of the trade; but, from his own knowledge, and the evidence which would be laid before the House, he could venture to pronounce the picture over-charged. At any rate, however, as it was a trade which had been so long sanctioned by the laws of this country, and the practice of every civilized nation, those who had engaged in it, on the faith of public protection, would have a fair claim to public compensation. The planters, indeed, might be reimbursed, but the merchants stood little chance of retribution; as was the case in a late melancholy settlement. It appeared to him, that it would be more prudent, instead of a precipitate amputation of it, to try to remedy the abuses of the trade, to mitigate its severity, and gradually to abolish it; by making an experiment of the effects of the reform, upon a small scale, before they rashly risked a measure of such importance. Every encouragement for this purpose might be given to the civilization of Africa, and the introduction of the arts and sciences among the inhabitants; which, by producing internal peace and habits of industry, would have a more powerful effect in abolishing slavery, than any thing short of the universal consent of all nations to abandon the trade; which was "a consummation devoutly to be wished," but not to be expected. If this could be obtained, he should be most zealous in promoting the benevolent wishes of the hon. mover of this business; but as it was now circumstanced, he considered a sudden and total abolition ruinous in the extreme. It would be banishing a most lucrative trade from this country, without benefiting the objects of their compassion; as what they abdicated in their phrensy, foreigners in their sober senses would eagerly catch at and enrich themselves with. On this account he conceived it his duty as the representative of a great commercial city, and in conformity with the petitions which he had the honour to deliver to that House, and which were signed by almost every principal merchant and trader in that city, to vote against the propositions as they were now offered, and with deference to the principal supporters of them, he would take the liberty to say, "Better not do the deed, than repent it done."

Mr. *Burke* said, that with regard to the question before the House, of not going into a committee until evidence was heard, it was entirely preventing every means the House had to obtain that evidence which might be thought farther necessary on the subject. Where could this evidence be given more properly than in the committee? As to the question itself, he thought no farther evidence was necessary, than what had already been laid before the House, to convince them of the necessity of abolishing what he would be bold to say was a system of robbery. He cared not for any objection that any particular persons might make to this expression. The African trade was, in his opinion, an absolute robbery. It therefore could not be a doubt with the House, whether it was proper to abolish it.

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It was the end of all law to correct and entirely eradicate, if possible, every evil that existed in any part of the state. The only question before the House was, whether the evil could be cured entirely or only partially alleviated? He had not the least doubt in his own mind, but it could be totally eradicated, without any of those attendant inconveniences which existed in the minds of some gentlemen. He was, therefore, anxious that they should proceed to that stage of the business in which such inquiries could be made as would convince the parliament and the country, that the African trade was a robbery that ought to be and could be abolished consistently with every principle of public justice and humanity. As to the idea of the West-India merchants being reimbursed what they might lose by this abolition, it was totally against every principle of legislation. Government gave their countenances to certain species of commerce, as long as they were conducted on such principles of equity and humanity, as deserved their sanction. But when this commerce became an evil, a disgrace to the state, government was certainly competent to withdraw their countenance from what they had before authorized and protected. And as those who engaged in this commerce, adopted it with all the conveniences arising from the sanction and encouragement it received from government; it was, therefore, but just that they should be prepared to abide by the losses arising from that sanction and encouragement being withdrawn. It was consequently evident that there existed no just plea for compensation on the part of the planters. He next adverted to the impossibility of a country being ever civilized, that was thus in the habits of slavery, as the Africans were. While we continued to purchase them, they must ever remain in a state of barbarity; for it was impossible to civilize a slave; it was contrary to the system of human nature. No country so situated was ever known to be in a state of civilization. On the contrary, those who were in the habit of selling their bodies, must remain in a state of the most savage barbarity. There were but two parts of the world that were distinguished for this national degradation—Africa, and the countries bordering on the Black Sea. Both were equally barbarous, both equally destitute of those refinements which attended an enlightened policy; and they would remain in this state of savage nature, as long as they remained liable to be purchased as the slaves of other nations. If the evils were such as had been represented before the privy council, he would give his hearty support to the motion. It remained for the House to go into the committee to consider the validity of these propositions. The Africans had that claim on our humanity which could not be resisted, whatever might have been advanced by an hon. gentleman in defence of the property of the planters.

Mr. *Molineux* said, that the abolition of the slave trade would destroy the West India trade. What were they about to do? Did they mean to swallow all the property of the planters, in order to gratify a humane disposition towards the Africans? Before they were humane to these, he thought they should be tender of their own subjects, whom they had seduced to hazard their property in this trade. This Bill was brought in, under the impression of the planters exercising great cruelties towards the negroes. This was untrue. He would read a letter to convince the House of the contrary. He then read a letter which he had received from his agent in the West Indies, dated the 9th of June, 1771. The letter contained a complaint against the rev. Mr. Frazer, who was paid by Mr. Molineux 50*l.* per annum for attending to the welfare of his negroes. It stated an instance of a negro that was ill in the hot-house of a sore throat, who had not had sufficient attendance from this Mr. Frazer; but that he had, by the care of some other person, been perfectly cured. The agent who wrote this letter expressed an opinion, that the rev. Mr. Frazer was paid 50*l.* a year for doing nothing. Mr. Molineux having read this letter, farther observed, that this reverend gentleman was left by his ancestor a hogshead of sugar to be given him annually. This had been always complied with, and he thought that he had some claim to more attention to his interest for this douceur. Mr. Molineux next adverted to the idea of the French discontinuing this trade, if we passed the bill for its abolition. This was not agreeable to their character, nor was it what, he conceived, would prove the fact. To prove that this confidence was ill-founded, he begged leave to read another letter, which had been received from a merchant in France. He then read it. It was to the following purport; that the

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merchant had received intelligence of a number of negroes being purchased on his account in Africa. That he had sent bills for the payment of his purchase, on the terms required by the English merchant, and that he would engage to take any quantity that could be procured for him on the same terms. He read this letter to show how ready the French were to receive, with open arms, the trade we were going so unwisely and so unjustly to abandon. He begged leave to remind the right hon. gentleman of the conduct of the French with respect to America. M. de Vergennes pretended to lord North, that he detested the rebels who were then opposing the lawful measures of our government. But what was the effect of this detestation? In a short time, a fleet equipped with men and ammunition, was sent to support these abominable rebels. Such was French sympathy and assertion! He stated this, that the right hon. gentleman might not confide on their assurances. For we were then made the dupes of their policy, and might be again, if we trusted to them in the present instance. He again adverted to the injustice of an abolition. He spoke not as a planter, but as a member of parliament. He was assured that it would tend to destroy the chief branch of our commerce. He had conversed with many planters on the subject, and they were all determined, should this act pass, to withdraw their money and property from the islands with all possible expedition. The result would therefore be, that they would transfer themselves, their trade, and their capitals to France, where they would be received with open arms. He begged, therefore, that the House would consider maturely the acts which they were about to commit. If they saw the consequences to the country, as he did, he was convinced that they would abandon their intention. He next observed, that it was the planters who were the greatest slaves. They hazarded all their property, and risked their life and health in the cultivation of these islands. Having obtained a property, they returned home; for their country they called their home. Here their property centered. And would parliament drive them from this mode of conduct, by which the country was so benefitted in its commerce, and enriched in its property? No! forbid it wisdom, prudence, and justice! As to the principle of cruelty in the planters towards the negroes, the letter which he had read was a proof of the contrary. The necessity of the bill could not, therefore, be defended on this ground. But he would ask, on what supposition the planters were supposed to be those cruel persons? Did they, from their general behaviour and demeanor in society, give a sanction for such a dishonourable opinion? He believed they would be found to be as compassionate in their nature as the rest of their species. He deprecated, therefore, this unjust censure.

After some further conversation, the motion was withdrawn. It was then agreed, that the House should go into the committee on the 26th; and also upon the 27th and 28th of the same month, and upon the 9th, 11th, 12th, 16th, 18th, and 19th of June.

June 23. On the order of the day being read for going again into the said committee, Mr. Alderman Newnham moved, That the said order be discharged.

Mr. *Wilberforce* was willing to accede to the motion, provided an amendment was made to manifest the intention of the House to resume the consideration of the said petitions early in the next session.

Mr. *Fox* said, that the question of the abolition of the slave trade, was a question between humanity on the one side, and interest on the other. Nothing could be more disgraceful than for that House to decide against the abolition from principles of interest, unless they had the courage positively to affirm, that interest was their motive. For his part, he was a good deal inclined to adopt the opinion, that a committee above stairs was a much more fit committee for the purpose of examining witnesses and of receiving evidence, than a committee of the whole House.

Mr. *Marsham* said, he never would sit silent and hear it stated, that the abolition of the slave trade was a question of humanity on the one hand and of interest on the other. The West India merchants and planters, he was persuaded, were as much men of humanity as any other description of men whatever, and if they could be convinced, that it would be for the interest of the public that the trade should be abolished, they would as cordially concur in its abolition as any gentleman in that House.

Mr. *Rolle* wished the subject to be fully investigated, and that the evidence might be maturely considered before gentlemen gave their opinions. This was the desire of his constituents, and therefore he should

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give his consent to the motion. He hoped, however, that in the interim, between the end of the present and the commencement of the next session, care would be taken to sound foreign courts upon the subject, and to learn how they stood affected towards the abolition.

Mr. *William Smith* agreed with the hon. member, that it was not a question of humanity on the one hand, and interest on the other, because, before it was brought to a decision, he had no doubt but that the House would be convinced it was as much for the interest of the public as for the interest of humanity that the trade should be abolished, and that the West India planters themselves would find it to be their interest as much as that of any other description of persons.

The question was then put and carried. Mr. Alderman Newnham immediately moved, "That this House will early in the next session of parliament, proceed to consider further of the circumstances of the slave trade complained of in the said petitions." The motion passed unanimously.

Mr. *Gascoyne* said, he should be happy to hear from an hon. baronet, whether he meant to move for a renewal of the middle-passage regulating bill in the same form in which it had passed last session, or whether he meant to propose any alterations? If the hon. baronet meant only to revive the bill as it stood at present, it would release several of his constituents, who had been some time detained in town, and allow them to return on their private affairs to Liverpool.

Sir *W. Dolben* answered, that he meant to move for leave to bring in a bill for continuing the existing statute. If any gentleman would give himself the trouble of looking over the act of parliament, he would see that some alterations were absolutely necessary. Those alterations he certainly should propose; but he did not conceive that they would occasion any opposition. Sir William concluded with moving for leave to bring in a bill to continue and amend "an act to regulate, for a limited time, the shipping and carrying slaves, in British vessels, from the coast of Africa."—Leave was given.

Debate in the Lords on Earl Stanhope's Bill for relieving members of the Church of England from sundry Penalties and Disabilities.] May 18. The order of the day being read,

Earl *Stanhope* rose, and after remarking that those peers who had been present when the Regency bill was in agitation, might recollect his having stated to the House, that there were laws respecting religion upon the statute book still unrepealed, which were a disgrace to the country, and to the good sense of parliament, said, that he should beg leave to state to their lordships about one-tenth part of the absurd ecclesiastical laws of this country, being convinced that that tenth part would prove more than sufficient to induce the House to adopt the bill which he designed to propose, and which was, "a bill for relieving members of the church of England from sundry penalties and disabilities, to which, by the laws now in force, they may be liable, and for extending freedom in matters of religion to all persons (Papists only excepted) and for other purposes therein mentioned."

Laws about going to church.—By the 1st Eliz. c. 2, sec. 14, it is enacted that every person is to go to church every sunday and holiday, or to forfeit twelve pence. By the 23d Eliz., c. 1, sec. 5, every person above sixteen, not going to church for a month, to forfeit 20*l*., and shall in twelve months be bound with two sufficient sureties in 200*l*., at least, for his good behaviour. By sec. 11, imprisonment if he cannot pay. By the 35th Eliz., c. 1, sec. 1, any person refusing to go to church to be committed till he does go. By the 3d James 1, c. 4, sec. 11, the 20*l*. per month (incurred for not going to church) may be refused, though the same be legally tendered, and two parts out of three of all the lands, tenements, and hereditaments of the offender shall be forfeited instead of the said 20*l*. By sec. 32 and 33, every person is to pay 10*l*. per month, for every servant, for every visitor, and also for the servant of every visitor, in his or her House, who does not go to church. By sec. 39, (over and above all this) the ecclesiastical jurisdiction is reserved to punish all offenders against this act.

Here earl Stanhope declared that he had felt the utmost satisfaction at having heard, upon a former occasion, the archbishop of Canterbury, the bishop of Salisbury, and the present bishop of St. Asaph, express their disapprobation of those persecuting laws. It appears, added the earl, that by the 6th chap. of St. Matthew, v. 5 and 6, Christ, in his incomparable sermon on the mount, said unto his dis-

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ciples, "And when thou prayest, thou shalt not be as the hypocrites are, for they love to stand praying in the synagogues, and in the corners of the streets, that they may be seen by men. Verily, I say unto you, they have their reward. But thou, when thou prayest, enter into thy closet, and when thou hast shut thy door, pray to thy Father which is in secret, and thy Father, who seeth in secret, shall reward thee openly." Now suppose that any conscientious person, reading the said text, were to conceive it to be his duty to pray in private and not to pray in public, and were therefore, upon no occasion, to attend divine service. By the wicked and absurd laws now in force, this conscientious man would become liable to the most cruel consequences. 1st. He is liable to fine to the extent above mentioned. 2nd. He is liable to imprisonment. 3rd. By the statute of the 35th Eliz., c. 2, sec. 8, he is obliged to abjure the realm upon oath, and all the dominions thereunto belonging, for ever. And 4th, by sec. 10 of the same act, if such person shall refuse to make such abjuration, or after such abjuration made, shall neglect to depart, or after having departed he shall come into any of his Majesty's dominions, such person shall be adjudged a felon, and shall suffer death, as in cases of felony, without benefit of clergy. And yet we boast of the tolerant spirit of the laws of England! Under these laws a person believing all the doctrines of the church of England is liable to suffer such punishments. And so is a Protestant dissenter, for he cannot receive any relief from the toleration act (of the 1st Will. and Mary, c. 18), on account of the stupid proviso contained in the 16th sec. of that act. And, as a refinement upon cruelty, it is enacted by the 29th Eliz., c. 6, sec. 1, a son may forfeit his estate, if settled upon him by his father, upon his (the son's) marriage, or at any other time, in case his father does not go to church, though he himself (the son) does. And in order to make the law completely vexatious, it is enacted, by the 21st James 1, c. 4, sec. 5, that any information, suit, or action, against any person or persons for not frequenting divine service, may be laid in any county, at the pleasure of any informer. Dr. Burn, in his Ecclesiastical Law, vol. 3, p. 129, says, that "He who misses either morning or evening prayer, or goes before the whole service is over, is as much within the statute of the 1st Eliz., c. 2, sec. 14, as he who is wholly absent." The act of parliament extends not only to Sundays (which alone would be sufficiently absurd) but also to feasts and holidays, such as St. John's, St. Thomas's, St. Bartholomew's, St. Peter's, and other saints days and festivals, and therefore it is proposed, by the present Bill, to repeal laws of such extreme absurdity.

Laws about fasting.—By 5 Eliz. c. 5, sec. 15, it is enacted, that it shall not be lawful to eat any flesh upon any days now usually observed as fish days, or upon any Wednesday now newly limited to be observed as fish day, upon pain that every person offending herein shall forfeit three pounds for every time he shall offend; or else suffer three months close imprisonment, without bail or mainprize. By 5 Eliz. c. 5, sec. 37, it is enacted, that "such persons as have, or hereafter shall have, any lawful licence to eat flesh upon a fish day, shall be bound, by force of this statute, to have, for every one dish of flesh, served to be eaten at their table, one usual dish of sea fish (fresh or salt) to be likewise served at the same table, and to be eaten or spent, without fraud or covin." From the circumstances of these fasts or feasts being mentioned in the canons of the church, and in the rubric in the book of Common Prayer, to be observed, it must naturally be supposed, that abstaining from flesh, on these holy days, had something to do with religion; the more so as, by the 2nd and 3rd Edw. 6, c. 19, sec. 5, the archbishop of Canterbury was the person to grant licences for the eating of flesh. But it is directly the reverse; for, by the 5th Eliz., c. 5, sec. 39 and 40, it is enacted as follows: "And because no manner of persons shall misjudge of the intent of this statute, limiting orders to eat fish, and to forbear eating of flesh; but that the same is purposely intended, and meant politically, for the increase of fishermen and mariners, and for repairing of port towns and navigation, and not for any superstition to be maintained in the choice of meats: be it enacted, that whosoever shall, by preaching, teaching, writing, or open speech, notify, that any eating of fish, or forbearing of flesh, mentioned in this statute, is of any necessity for the saving of the soul of man, or that it is for the service of God, any otherwise than as other politic laws are and be; that then such persons shall be punished as spreaders of false news are and ought

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to be." So that fasting is not a religious duty. By sec. 19, of the same statute, veal is not to be eaten in the winter months, and no licence (says the statute) shall be given to eat beef "at any time of the year." And it is very remarkable, that the two archbishops, the bishops, archdeacons, and so forth, should (by 2 and 3 Edw. 6, c. 16, sec. 6) have special power given them to execute the laws respecting the eating of fish; although those laws are by that very statute, sec. 1, declared to be no other than a fishmonger's regulation. These acts of parliament about eating of fish are now expired; but the eating of meat on improper days is still an ecclesiastical offence. And lord Coke says (3 inst. 200), that "before these acts the eating of flesh on Fridays was punishable in the ecclesiastical court; as yet (adds lord Coke) it is." Therefore it is proposed by the present bill, that no person shall be sued in any ecclesiastical court for eating any kind of meat on any day of fasting or of abstinence.

Laws about Rites, Excommunication, &c.—In the 33rd article of religion it is said, "that person, which by open denunciation of the church is rightly cut off from the unity of the church and excommunicated, ought to be taken of the whole multitude of the faithful as an heathen and publican, until he be openly reconciled by penance, and received into the church by a judge that hath authority thereunto." And Dr. Burn, in his ecclesiastical law (title Excommunication) says, that "excommunicated persons shall be inhibited the commerce and communion of the faithful; and they who communicate with them shall be punished by ecclesiastical censure; and that by commerce is meant buying or selling, or other interchange of wares or merchandize:" and that "where a man is excommunicated by the law of holy church, and he sueth an action real or personal, the defendant may plead, that he who sueth is excommunicated:" so that no person excommunicated can recover a just debt. Besides which, a writ *de excommunicato capiendo* may, in various cases, be issued out against the person excommunicated, who may be arrested thereupon, and kept in prison.—There are various cases in which the said writ may issue, and by the statute of the 5th Eliz., c. 23, sec. 13, the said writ *de excommunicato capiendo* may be awarded in various cases, and, amongst others, in cases of heresy, or error in matters of religion or doctrine, or incontinency, or for a person refusing to have his child baptized, or for refusing to receive the communion, as received in the church of England, or for refusing to come to divine service. These ecclesiastical courts proceed without the intervention of a jury (that bulwark of English liberty). In the case of Allen Evans, esq. (the dissenter), lord Mansfield, in his admirable speech in the House of Lords, said: "Conscience is not controllable by human laws, nor amenable to human tribunals. Persecution, or attempts to force conscience, will never produce conviction; and are only calculated to make hypocrites or martyrs. There never was a single instance (says lord Mansfield) from the Saxon times down to our own, in which a man was ever punished for erroneous opinions concerning rites or modes of worship but upon some positive law. The common law of England, which is only common reason or usage, knows (says lord Mansfield) of no prosecution for mere opinions."* Persecuting laws (such as those of the 5th Rich. 2, sess. 2, c. 5, and the 2nd Hen. 4, c. 15, and the 31st Hen. 8, c. 14, &c.) were gradually introduced, and by means of the writ *de hæritico comburendo*, several persons, under pretence of heresy, were burnt. The said writ was taken away by the 29th Ch. 2, c. 9. But that act contains the following remarkable proviso, viz: "Provided always, that nothing in this act shall extend, or be construed, to take away or abridge the jurisdiction of Protestant archbishops, or bishops, or any other judges of any ecclesiastical courts, in cases of atheism, blasphemy, heresy, or schism, and other damnable doctrines and opinions, but that they may proceed to punish the same according to the ecclesiastical laws, by excommunication, deprivation, degradation, and other ecclesiastical censures, not extending to death, in such sort, and no other, as they might have done before the making of this act, any thing in this law contained to the contrary, in any wise notwithstanding." Observe the words "not extending to death!"

Law by which Protestant bishops, &c. may become popish recusants convict.—By the 30th, Ch. 2, stat. 2, c. 1, sec. 5 and 6, it is enacted, that every peer or member of the House of Peers, or peer of Scotland, or peer of Ireland, or member

* See Vol. 16, p. 316.

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of the House of Commons who shall go to court, without having made the declaration in the said act contained, shall be disabled to hold any office, civil or military, or to sit in parliament, or to make a proxy in the House of Peers, or to sue or use any action in law, or to prosecute any suit in equity, or to be guardian of any child, or executor, or administrator of any person, or capable of any legacy or deed of gift, and shall forfeit 500*l.* and be deemed and adjudged a popish recusant convict, that is to say, shall be as excommunicated, shall not come within ten miles of London, and shall not remove above five miles from their habitation in the country. Many members of the House of Commons, a majority of the House of Lords, and perhaps the whole bench of bishops, are liable to these absurd penalties at this moment; and any person who has incurred these penalties is in a very awkward situation; because the act makes it an incurable recusancy, unless cured in the very next term, after such person has been at court. So that by this law a very singular circumstance has, perhaps, taken place, and the whole bench of Protestant bishops may, perhaps, be at this moment popish recusants convict. Earl Stanhope added that if he thought that the right reverend and learned prelates would not support his Bill, he might, by means of this absurd law, clear the House of them, and carry the Bill through in their absence; for they could not even vote by proxy.

Laws about exporting women, &c.—By the 1st James 1, c. 4, sec. 8, no woman nor any child under 21 years (except sailers or ship boys, or the apprentice or factor of a merchant) shall be permitted to pass over the seas (except, by licence of the king, or of six or more of the privy council, under their hands) on pain that the officer of the port suffering any such to pass, shall forfeit his office, and his goods; and on pain that the owner of the ship carrying any such over sea, without such licence, shall forfeit the ship and tackle; and every master and mariner of the vessel shall forfeit his goods, and be imprisoned for twelve months. By sec. 6, if the person going abroad be under 21 years, he shall forfeit all his lands, goods, money, and estates, in trust for him; and the person (if any) who shall send any such person abroad, shall forfeit 100*l.* And by sec. 9, one half of all such forfeitures shall be to the king, and the other half to him who shall sue. It is therefore proposed by the Bill to repeal a statute which would disgrace even Hottentots.

Canons of the church.—The right reverend worthy and religious prelate, who presides over the clergy of London, in his letter to them (dated December 15, 1788) describes admirably the character of a true Christian, and of a candidate for holy orders; and consequently, the disposition of mind which every person ought to possess who is actually become a priest. "He must, says the bishop, endeavour to acquire, by meditation, by reflection, by frequent and fervent prayer, that humility and meekness, that self-government and self-denial, that ardent piety and heavenly-mindedness, that unblemished sanctity of manners, and evangelical temper of soul, which his heavenly master requires at his hands, and which it must be the peculiar business of his life to recommend to others, both by his doctrine and his example." These (added earl Stanhope) are the benign principles of the church at present; let us see what were the principles of the church when the persecuting laws were made. The 3d canon of the church is, that "Whosoever shall hereafter affirm that the church of England is not a true and apostolical church, teaching and maintaining the doctrines of the apostles, let him be excommunicated *ipso facto*, and not restored but only by the archbishop, after his repentance and public revocation of this his wicked error." Canon 4. "Whoever shall affirm that the form of God's worship in the church of England containeth any thing in it that is repugnant to the scriptures, let him be excommunicated *ipso facto*." Canon 5. "Whoever shall affirm that any of the nine and thirty articles agreed upon in 1562, are, in any part, superstitious or erroneous, or such as he may not, with a good conscience, subscribe unto, let him be excommunicated *ipso facto*." That is to say, let him be, *ipso facto*, disqualified to be a witness, to act as an executor, to buy or to sell, to bring an action for the recovery of a debt, or (if he dies) even to have christian burial. And by the 65th canon. "All ordinaries shall carefully see and give order that those who refuse to frequent divine service, or who stand lawfully excommunicate, be in the parish church, at the time of divine service, upon some Sunday, denounced and declared excommunicate, that others may be thereby

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both admonished to refrain their company and society, and excited the rather to procure out a writ 'de excommunicato capiendo' (the consequence of which is imprisonment), thereby to reduce them into due order and obedience." This is wonderfully like that christian humility and meekness so admirably well described by the respectable and worthy prelate.

The 115th canon recites that "The churchwardens are sworn to present as well the disorders of persons as the common fame that is spread abroad of them." The canon then proceeds, "We do admonish and exhort all judges, both ecclesiastical and temporal (as they regard and reverence the fearful judgment-seat of the highest judge), that they admit not in any of their courts, any complaint, plea, suit, or suits against any such churchwardens, for making any such presentments, nor against any such presentments, nor against any minister for any presentment that he shall make; all the said presentments tending to the restraint of shameless impiety; and considering that the rules both of charity and government do presume, that they did nothing therein of malice, but for the discharge of their consciences." This is an ecclesiastical law which would do honour to the inquisition itself! some of these canons of the church are as absurd as others are wicked and profligate. The 72d canon is, that "No minister shall, without the licence of the Bishop of the diocese, under his hand and seal, attempt, upon any pretence whatsoever, by fasting and prayer, to cast out any devil or devils, under pain of the imputation of imposture, or cosenage, and deposition from the ministry." The 73d canon is, that "Forasmuch as all conventicles and secret meetings of priests and ministers have been ever justly accounted very hurtful to the state of the church, wherein they live, we do now ordain and constitute, that no priests or ministers of the word of God, nor any other persons, shall meet together in any private house, or elsewhere, to consult upon any matter or course to be taken by them (or, upon their motion or direction, by any other) which may any way tend to the impeaching or depraving of the doctrine of the church of England, or of the Book of Common Prayer, or of any part of the government and discipline now established in the church of England under pain of excommunication *ipso facto*." So that any of the bishops themselves would (for instance) be excommunicated *ipso facto* if they were to meet in any private house to consult upon the propriety of altering the 72d canon, respecting the devils.

Earl Stanhope here observed, that though the persecuting statutes which he had mentioned were still in force, and most of them in force even against members of the church of England, yet, he had the pleasure to inform the House, that these canons of 1603, did not bind either the clergy or the laity, though they were generally supposed to be binding upon the clergy. In the case of Middleton and Croft (M. 10. Geo. 11.) the Court of King's Bench unanimously determined, that the canons of 1603 did not, by their own force and authority, bind the laity. King James 1. in his ratification, under the great seal, of those canons, made by the convocation of the clergy, recites as his authority for ratifying those canons, the statute of 25th Hen. 8. cap. 19. But, when the said statute is examined, it appears, that it gives a different authority from that then exercised by that king; it gives an authority to ratify a revision of old canons, which revision was enacted to be made, not by the convocation, but by a committee, half laymen, half clergy: of course the ratification was null and void in law. Consequently, those canons are not binding either upon the laity or clergy. And by 13th Charles 2, cap. 12, sect. 5, it is said, that that act "shall not be construed to extend to confirm the canons of 1640 nor any of them, nor any other ecclesiastical laws or canons, not confirmed, allowed, or enacted by parliament." Earl Stanhope conceived, that the canons of the church of 1603, were, therefore, waste paper; but they were extremely useful records, to show the persecuting spirit and the superstition of those times. No respect, continued Earl Stanhope, is due to the laws relative to religion on account of their antiquity; for, when we look back into the statute-book in former times, we find it full of absurdities. By 18th Edw. 3, stat. 3, c. 2, it is enacted, "that a man marrying two wives or one widow shall be tried for bigamy in the spiritual court, as in the case of bastardy," so that it was equally penal to marry one widow as to marry two wives. And Dr. Burn, in his ecclesiastical law, says, "Bigamy are they who have married two wives or more, or one widow." This act of Edward 3, is

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the same that was wittily called by some of the wags of the Temple, "an act for keeping widows at short commons," By 37 Henry 8, c. 6, Burning only a frame of timber is made felony and death. And by the same statute, there are four curious offences, by committing any of which any man did then incur one and the same penalty, namely, a penalty of 10*l.* viz. 1. For cutting out a beast's tongue. 2. For burning a cart. 3. For barking an apple tree. And 4. For cutting off the ears of any of his Majesty's subjects. By 1 Edw. 6, c. 12, sect. 14, Peers were allowed benefit of clergy, though they could not read. Admirable legislators in those days, who could not even read!

There were also various laws made formerly about witches: and the act of 1 James 1, c. 12, was extremely severe against the supposed offence of conjuration, witchcraft, sorcery, and enchantment. It was by those laws made felony, without benefit of clergy, to invoke or consult with any wicked and evil spirit. Or to covenant with, employ, or reward any goblins, hobgoblins, and so forth. It was also felony and death to make use of conjuration to kill any person, or to raise dead bodies from their graves, for the purposes of charm, witchcraft, sorcery, or enchantment. It was also made highly penal to use sorcery, in order to discover hidden treasures, or to restore stolen goods, or to hurt any beast, or to use sorcery to provoke unlawful love! There was also another curious offence, which was the entertaining or feeding any evil spirit, and it was made felony, without benefit of clergy, to feed any of these evil or wicked spirits, either with animal or vegetable food! These laws prove the folly and superstition of those times. And it is one of the most remarkable and striking facts in the whole English history, that the canons of the church, the law against exporting women, the law to make a man forfeit two-thirds of his estate, for not attending divine service, and this famous law about witches, were all made within three years of the same time; and in the beginning of the reign of that beast and bigot king James 1. It was indeed a very fit and a very proper time to make laws to imprison men for not going to church, when laws were making against the use of dead bodies in enchantments, or against the use of sorcery or witchcraft to provoke unlawful love! And it was indeed a very fit and a very proper time to enact laws to deprive men of their property for not attending divine service, when laws were making against invoking goblins and hobgoblins, and against feeding any evil or wicked spirits either with fish, flesh or vegetables! These laws about witches were not repealed till the 9th of Geo. 2, and well would it have been if the rest of this despicable rubbish had been swept away at the same time. And that is what is now proposed.

In the treaty of navigation and commerce, made between Great Britain and France three years ago, in the fifth article it is expressly stipulated, that "in matters of religion, the subjects of the two crowns shall enjoy perfect liberty: they shall not be compelled to attend divine service, whether in the churches or elsewhere; but, on the contrary, they shall be permitted, without any molestation, to perform the exercises of their religion in their own houses, and in their own way;" This is a liberal and an admirable article in the treaty. But how absurd and how scandalous it is that all English Protestants, without exception, while they live in this country, are by law debarred from that freedom in religion, which, by that treaty, they have a right to enjoy in France, and which also by that treaty, French Papists have a right to enjoy in England! Free investigation in matters of religion is by various laws prohibited in England; which is, beyond measure, infamous, and very little congenial to the sentiments of some of the most valuable and respectable bishops of the present age. The present bishop of Lincoln (Prettyman) in his sermon preached before the House of Lords on the 30th of January last says, "Those who required a tame submission to the arbitrary commands of secular authority, enjoined the same blind compliance in matters of religious faith and practice; and, on the other hand, those who have been most wisely zealous in the cause of public liberty, have recommended the study of our holy religion, and asserted the right of private judgment; being convinced, that where the spirit of the Lord is, there is liberty." Earl Stanhope added, that he entirely agreed with the worthy prelate in that important principle; and that it was upon that very principle that the whole of his present bill was founded. His principle was, that no man had any right to oppress another; and that liberty of conscience, freedom of investigation in mat-

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ters of religion, and the right of private judgment, were the indefeasible and unalienable rights of all mankind; and that it was wholly upon that sacred right of private judgment that the Protestant religion itself was founded.

He then read his intended bill through, clause by clause, explaining every part to the House as he proceeded. The bill enacts, that no person shall in any case be liable to any fine, imprisonment, or other penalty, or to incur any disability whatsoever, or to be sued or prosecuted in any ecclesiastical or other court for not attending divine service, or for keeping or having in his or her house any servant or other person who shall not attend divine service, or who shall be of any religion different from that of the church of England, or for eating any kind of meat on any day of fasting or of abstinence, or for not conforming to, or for neglecting or refusing to observe the rights and ceremonies of the church of England, or any of them. The bill recites, that Almighty God hath created the human mind free; consequently the right of private judgment in matters respecting religion is, and ever must be, the unalienable right of mankind, and, as such, ought always to be holden sacred and inviolable. The bill therefore enacts, that all persons (papists, on account of their persecuting and dangerous principles, only excepted) shall have free liberty to exercise their religion; and by speaking, writing, printing, and publishing, or by all or any of the said ways or means to investigate religious subjects; and by preaching and teaching to instruct persons in the duties of religion, in such manner as every such person respectively shall judge the most conducive to promote virtue, the happiness of society, and the eternal felicity of mankind.

There are eight provisos in the bill. 1st. That nothing in this act shall extend to give relief to Papists. Upon this first proviso earl Stanhope expatiated, concerning what he described, as the various abominable, execrable, and dangerous principles of Papists, which made them unsafe citizens of the state. But it was, he said, with particular satisfaction, that he was in the House the other day, when his noble friend near him (lord Rawdon) presented a petition from persons styling themselves Catholic Dissenters, in which petition those persons utterly disclaimed, reprobated, and protested against the principles of popery. Therefore it appeared to him just, that the law should some day draw a line of discrimination between the persecuting Papists, and those who publicly and unequivocally disclaim all those abominable and detestable principles. The second proviso of the bill is, that it shall not repeal any part of the act of 12th and 13th Will. 3, chap. 2. 3d proviso. The bill not to enable any person to hold any office, civil or military, without being duly qualified, as now required by law. Earl Stanhope disapproved of the act of 13 Cha. 2, sec. 2. ch. 1, commonly called the corporation act; and of the 25th Cha. 2, ch. 2, commonly called the test act; and also of the 16th Geo. 2, ch. 30, which is the new test act, but observed, that he would not propose to repeal them by this bill, however much he disliked those laws. He recommended to their lordships to read one of the best written pamphlets of the present age, intituled, "The Right of Protestant Dissenters to a complete toleration asserted." 4th proviso. The bill not to extend to ministers of the church of England, or persons officiating as such. 5th and 6th provisos. Persons encouraging vice or immorality, or exciting others to disturb the peace, to be punished. 7th proviso. This act not to authorize any person to preach or perform any religious ceremony, except only in a private house, until the place of such preaching or ceremony be certified. 8th proviso. The act not to make valid any marriage which would not have been valid before the passing of the act. The bill then repeals the laws against exporting women and children, and the laws by which Protestant bishops may be made Popish recusants convict.

In conclusion, earl Stanhope remarked, that he might be justly accused of doing too little, but that no man could justly accuse him of doing too much; and that laws not fit to be executed ought to be repealed. The laws which he had mentioned might be enforced not only by the church, but by a common informer. And he produced above thirty cases in which the persecuting laws respecting religion, had been enforced within the last 26 years. Some of these cases related to Catholics, and others to Protestant Dissenters. How shocking and disgusting it was to read, amongst those cases, that poor men's tables, chairs, deal shelves, pewter dishes, bolsters and beds, had been sold by public auction, in order to pay the penalties for not going to church.

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Others of these laws had been enforced within the last ten years, and some within the last twelve months. No later than yesterday, he received a letter, inclosing the case of a Protestant Dissenter, who had been presented under the laws of recusancy this very year.

The Bill was then read a first time and ordered to be printed.

June 9. The order of the day being read for the second reading of the bill,

The Archbishop of *Canterbury* rose. His grace confined his observations chiefly to the first clause for repealing the penalties imposed by law on persons not going to church, and to the second, authorizing free liberty to all persons, Papists alone excepted, to exercise their religion, and by speaking, writing, printing, or publishing, or by all or any of the said ways and means to investigate religious subjects, and by preaching and teaching to instruct persons in the duties of religion in such manner as every such person shall judge most conducive to promote virtue, the happiness of society, and the eternal felicity of mankind. Upon the latter, his grace dilated much at large, he remarked, that the words of it were so broad, that they would serve to cover every species of irreligion, and to countenance every effort to disgrace Christianity. He pointed out as a singular circumstance, that the word Christianity was never once introduced in the whole clause, and with great force of reasoning showed, that the very foundations of the religion by law established might be undermined and overthrown under the indefinite licentiousness that the clause might be construed to sanction. His grace put a great variety of questions to illustrate the dangerous looseness of the wording of the clause, and to show that there was an essential difference, and a wide distinction between free investigation, and the propagation of such opinions as might be the result of such investigation. As the law stood at present, his grace asserted, that every man was at full liberty to investigate religious topics; but he contended, that if unrestrained speaking, writing, printing, and publishing of religious opinions, were permitted, there was scarcely a mischief to the church, or to civil society, that imagination could form an idea of, which might not be effected. If the enemy of Christianity might be at liberty to propagate his pernicious arguments, grounded in error and coloured with consummate art, what impression might they not make on the ignorant and lower ranks of mankind? If a man should entertain so unfortunate an opinion as the disbelief of the existence of a God, and should imagine that God's being was a mere fiction, and if he were sincere in this unfortunate opinion, was he, under the wording of the present clause, to be at liberty to disseminate so dangerous and uncomfortable a doctrine? Suppose another were to profess himself a strong admirer of morality, but an enemy to all religion, was he to be allowed to spread abroad such profession? Let their lordships recollect, that it was the common artifice of the Atheists of old, to resort to that mode of imposition on the minds of the bulk of mankind, and it was but too obvious that there were many who might be deluded by such sophistry.—His grace entered much at large into the discussion of the danger that might result from suffering men, whether they acted from motives truly conscientious, or from fraud and intended fallacy, to disseminate doctrines and opinions, the propagation of which must necessarily tend to weaken the credit of the Christian religion, to endanger the security of the established church, and to divide and distract the sentiments and minds of mankind in general upon subjects the most serious, the most important, and on which the tranquillity, happiness, and safety of society essentially depended.—In the course of his speech his grace referred to the conduct of our ancestors in respect to these subjects, and showed that they had uniformly acted upon principles of prudence, and of necessary caution against obvious danger. He instanced the prosecution of a member of Sydney College, Cambridge, (to be found in sir John Strange's reports), who had been convicted of blasphemy, in a discussion of the miracles of our Saviour, which under a pretence of arguing for the honour of Christianity, and in defence of the Protestant religion, he had chosen to treat with the highest degree of ridicule. In that case the offender was fined 25*l*., imprisoned for a year, and obliged to find security for his good behaviour for life. After going through a variety of pointed observations on the different parts and provisions of the bill, his grace said, he might have been justified, had he forborne to touch upon the clauses of the bill, and contented himself solely with adverting

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to its principle, and objecting to the repeal of so many statutes, without even a specific reference to their titles and descriptions, which he considered to be a mode of proceeding equally unparliamentary and improper. If the Atheist were to be allowed to defend his Atheism by argument, he saw no reason why the thief might not be permitted to reason in behalf of theft, the burglarer of burglary, the seducer of seduction, the murderer of murder, and the traitor of treason. Therefore, although he was ready to allow, that there were on the statute books some acts of a persecuting spirit in matters of religion, which had better be repealed, and as willing as any man to agree to their repeal, he could not but object to the present bill proceeding any farther.

The Bishop of *Bangor* [Dr. Warren] rose next, and, in the first place, considered the relief which this bill proposed to give members of the church of England from the penalties to which they were liable by certain laws now in force, and with this view observed, that all the statutes in the time of queen Elizabeth and James 1, which required persons to attend the public service of the church, on certain pains and penalties, were entirely levelled at Papists, and accordingly, very few prosecutions were to be found against any members of the church of England. He then remarked, that when the act of toleration passed, the same care was taken to oblige all persons to attend public worship on Sundays, either at church, or some Protestant meeting, and concluded from thence, that even at the Revolution, a period so friendly to religious liberty, this restraint was not considered as inconsistent with the rights of private judgment. He then remarked, that it was left to these days of licentiousness to call in question the propriety and wisdom of those laws, which obliged persons to frequent some place of public worship on Sundays. The bishop then proceeded to defend these laws, and observed, that it was the indispensable duty of every man to worship God in the church. He mentioned various heads of argument, by which this duty could be proved; but such topics being more fit for the schools than a debate in the House of Parliament, he imagined that he might take it for granted, that to worship God in public was the indispensable duty of every man. The bishop then enumerated some of the advantages arising from public worship, and observed, that as all men were obliged to worship God in public, so all men had a right to assemble publicly for this purpose, and to be protected by the magistrates, as long as they held no doctrines which tended to disturb the civil state; and when the magistrates went thus far, it was natural for him to go one step farther, and provide that public worship should not only be properly performed, but duly attended, by obliging all persons to resort to some place of public worship on Sundays.—He should be told that this mode of compulsion was inconsistent with that freedom of judgment, which every man has a right to exercise in matters of religion; and to this objection he replied, by remarking, that in the present case there was no force on the private judgment of any man, as no man in this country could be compelled to attend any public worship, but what he himself could conscientiously join in, since he who could not communicate with the established church, might resort to any of the congregations of the Protestant dissenters, and he that could not communicate with either, might well be supposed to hold doctrines which were contrary to the interests of the civil state, and, as such, not fit to be tolerated.—The bishop proceeded to consider that part of the bill which extended freedom in matters of religion to all persons, Papists excepted. Here, he said, the bill gave such a latitude in speaking, preaching, writing, printing and publishing, on all religious subjects, that it virtually repealed all the laws now in force against infidelity, profaneness, and blasphemy, and in particular the statute of the 9th and 10th of William, for the suppression of blasphemy. He remarked, that this statute of William was almost the only law by which impious opinions could be punished; and that this would be useless and of no effect, were the bill to pass into a law. He observed, that there was no room to complain of too great restraint being laid on private judgment in matters of religion in this country. He proceeded to show that all the restraints had been long taken off, and that there existed no restraint now on private judgment in matters of religion, as long as men conducted themselves with good order and decency; but that good order and decency could not exist, unless the statute of William, or some law of that kind, were suffered to remain. The bishop then described the confusion which would instantly ensue,

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were this bill to pass, and alluded to a chapel which was opened many years ago, in the east part of the town, where a clergyman of the name of Henley publicly preached blasphemy for many years together; and so tender were our courts of pronouncing a determination which might bear hard on private judgment in matters of religion, that many attempts were made to suppress this chapel, and at length it was effected. The bishop added, that were the latitude proposed by this bill given, we should have a chapel of this sort in every street.—After this, the bishop asked leave to digress a little from the subject of this bill, in order to give an answer to what the noble patron of this bill had said concerning the canons of 1603, as if they had no authority to bind the clergy. This the bishop did very briefly, by observing that no canons can have authority in this country, unless the convocation is summoned to sit, by the king's writ, and proceeds to make canons by his express order, and then the canons must have the royal assent. These points, he observed, were settled by the 25th Henry 8, ch. 19; and as the canons of 1603 were made, in all respects, conformable to this statute, they were certainly binding on the clergy at the time when they were made. The act which took away the high commission court took away also the ecclesiastical jurisdiction from the archbishops and bishops, and the operation of these canons being suspended by these means, some had imagined that they were repealed thereby; and supposing this to be the case, yet, as this act, which abolished the ecclesiastical court, was repealed by an act of Charles 2, the ecclesiastical court recovered its authority, and together with it the canons.

The Bishop of *St Asaph* [Dr. Halifax] supported the same side of the question. He rescued the canons of the church from the harsh constructions put upon them by the noble earl, and contended that the noble earl's arguments were grounded in a misconception of their purport and tendency. He admitted that the laity were not bound by those canons, but asserted that the clergy were, and assigned a variety of reasons in proof of his assertion. After giving a circumstantial answer to the noble earl's speech of the 18th of May, he adverted to the great danger of innovation in matters of serious importance, and after descanting on the danger of a hasty repeal of a long catalogue of statutes, all from their import passed at the time with very full and mature consideration, stated, that amongst the Locrians, if any man opposed a new law, with a view to alter and annul the existing law of the country, he was obliged to have a rope round his neck, when he ventured to bring forward his proposition. His lordship concluded with a quotation from Blackstone.

The Bishop of *St. David's* [Dr. Samuel Horsley] rose and said:*

My lords; In a variety of laws framed in different periods of our history, either for the maintenance of religion in general, or for the particular security of the national church, that some may be yet standing upon the statute book unrepealed, which do little credit to the spirit of the times in which they were enacted, I shall not take upon me to deny. In the repeal, the specific repeal of laws of this description, I for my part, and I trust my brethren of the episcopal bench, will never be unwilling to concur. My lords, if laws be subsisting contrary to the principles of just government, infractive of the rights of private conscience, repugnant to the mild spirit of the religion we profess,—if such laws subsist, the fortunate circumstance of the times in which we live, that no persecution is stirring or likely to be stirred, is no reason, in my judgment, that such laws should be suffered to remain in force: it is a sufficient ground for the repeal of them, that they are weapons loosely lying about, which the fiend of persecution may at any time pick up and employ to her own fell purpose, if any unfortunate revolution in the temper of mankind should set her free from the restraints which the tolerance of the times for the present lays upon her. My lords, it is not enough that this dæmon be kept in order for the time by the prevalence of the contrary principle,—that she sit moping, abashed, disheartened, under the conviction that the hand and heart of every man are against her: My lords, she should be disarmed, and laid in chains until the judgment of the great day; my lords, her armour should be broken and her chains rivetted. But, my lords, if the peaceful state and temper of the times afford no reason for the continuance of laws which

* From the collection of Dr. Horsley's speeches in parliament, published by his son in 1813.

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in worse times might be oppressive, your lordships, I persuade myself, will think it a strong reason for taking time to proceed with due deliberation and caution in so important a business as the revisal and reform of so considerable a branch of our criminal law as that which regards offences against religion. Your lordships will think it becomes your wisdom to consider the contents of the writing before you apply the sponge; lest, meaning only to obliterate oppressive laws, you abolish the most beneficial and necessary restraints.

My lords, my objection to the bill upon the table is, that I can discover nothing in it of this discretion: it drives furiously and precipitately at its object, beating down every barrier which the wisdom of our ancestors had opposed against vice and irreligion, and tearing up the very foundations of our ecclesiastical constitution. My lords, if this bill should pass into a law, no established religion will be left. My lords, when I say that no established religion will be left, I desire to be understood in the utmost extent of my expressions: I mean, my lords, not only that the particular establishment which now subsists will be destroyed, but that no establishment will remain of the Christian religion in any shape,—nor indeed of natural religion. My lords, this bill, should it unfortunately pass into a law, will leave our mutilated constitution a novelty in the annals of mankind, a prodigy in politics, —a civil polity without any public religion for its basis.

My lords, these are not rhetorical words, that go beyond the truth of the thing. To convince your lordships that they are not, I shall beg your indulgence while I endeavour to show the operation of this bill both upon the statute law and the ecclesiastical jurisdiction. First, for the effect of the bill upon the statute law. My lords, the first clause.—But, by the way, I must apprize your lordships, that I mean to confine my remarks to so much of the bill as relates to the laws concerning religion; other matters are oddly enough intermixed, but I confine myself to what concerns religion. I have no objection to the noble earl's eating beef in preference to any other meat, on any day of the year, or any hour of the day.—The first clause, my lords, so far as it relates to the laws concerning religion, abrogates in a lump all the laws in the statute book relating to the observation of the Lord's day. My lords, do your lordships perceive any thing in the manners of the times that calls for the abolition or relaxation of those laws? Are we guilty of any childish superstition in the observance of the day, that may interfere with duties of a higher obligation? My lords, is not the contrary notorious? Is it not notorious, that the business and the pleasures of all ranks of the people are going on, on the Lord's day, with little interruption? Perhaps some extravagant severity in the penalties of these laws may call for mitigation. My lords, I certainly shall not be the advocate for that law of queen Elizabeth which imposes a fine of 20*l.* per month upon any person above the age of sixteen who neglects to go to church; much less shall I pretend to vindicate that law of James 1 by which the king is authorized to refuse the 20*l.* per month, and take two thirds of all lands, tenements, and hereditaments. There might be reasons to justify these laws at the time when they were passed;—I shall not enter into that question: those reasons subsist no longer, and those laws now are not to be defended. But, my lords, the noble earl's bill equally abrogates the 1st Eliz. cap. 2 sect. 14.; to which no objection can be made on account of the severity of its penalties. My lords, this law only imposes upon every person who, without a lawful or reasonable excuse, shall absent himself from his parish church or chapel on Sundays or holidays, the very moderate fine of one shilling for every offence, over and above the censures of the church. My lords, this fine is too small to be oppressive upon the poorest of the people. Suppose that the common day-labourer be absent from church every Sunday in the year, and that the fine be levied for every offence, my lords, the amount of it in the whole year, even upon the supposition that it may be levied twice on each Sunday, is much less than the offender would probably squander in the same time in riotous pleasures, to the great injury of his family, if he were released from the restraint of this law. This penalty, my lords, is just what the penalty of such a law should be; it is a lighter evil to the individual than he will be apt to bring upon himself by the neglect of that which the law requires to be done: For, my lords, it is a notorious fact, that the common people of this country, if they do not keep the Sunday religiously, keep it in another manner; if they do not go to church, they spend the day in houses of riotous pleasure. My lords, the severity of the law (what little

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severity there is in it) is abated by the allowance that it gives to "lawful and reasonable excuses." Its penalties are to be levied only upon those who without "lawful and reasonable excuse" neglect to resort to their parish-church. "Lawful and reasonable excuse:" My lords, these are large words, which leave much in the discretion of the magistrate who is to enforce the law. A lawful excuse, indeed, may seem to signify such excuses only as were allowed by the laws in being at the time when this law was made; but a reasonable excuse, is every excuse which the reason of man, judging by its own laws and its own maxims may approve. My lords, in the present state of manners, great distance from the parish church or chapel must be deemed a reasonable excuse. The noble earl, in the speech with which he introduced the bill under consideration, mentioned a case which had lately happened in the country, in which this law had been enforced against a person whose dwelling-house was at an extravagant distance from any place of worship. My lords, this case, if it really was as it was stated to the noble earl,—if the great distance was pleaded and given in proof, and the fine was notwithstanding levied,—this case, I say, bears very hard, in my judgment, upon the discretion of the magistrates who took the information: but, my lords, that's all; the blame was in the magistrates, not in the law; for your lordships must be sensible that the mildest laws are liable to be abused by misapplication.

But perhaps, my lords, this law may be allowed to be reasonable enough as far as it regards the Sunday, but it may seem a circumstance of extravagant severity that the observance of holidays as well as Sundays is required under the same penalties. My lords, I revert to my former observation,—that the law allows "lawful and reasonable excuses" on any day; and in the present state of manners, I conceive, my lords, that the ordinary occupations of life form a reasonable excuse of absence from divine service upon holidays, with the exception of a very few,—namely, Christmas-day, Good Friday, the King's Accession, and occasional fasts and thanksgivings. Perhaps the noble earl may wish me to except another day, which, if I guess aright, his lordship means to add to the calendar. With the exception of these few days the ordinary occupations of life are, as I conceive, a reasonable excuse of absence from church on any holiday. My lords, they are much more; they are a lawful excuse,—they are such an excuse as the magistrates before whom an information may be laid are bound by law to take notice of. My lords, the magistrate is bound to take notice of this excuse, by the very law which settles the holidays of our calendar, by the 5th and 6th Edward 6, cap. 3. My lords, in that very statute your lordships will find a proviso to this effect. (Here the bishop read from his notes the sixth paragraph of the statute mentioned; which provides, that "it shall be lawful to every husbandman, labourer, fisherman, and to all and every other person and persons, of what estate, degree, or condition, he or they be, upon the holidays aforesaid, in harvest, or at any other times in the year, when necessity shall require, to labour, ride, fish, or work any kind of work, at their free-wills and pleasure; any thing in this act to the contrary notwithstanding.") But in truth, my lords, the noble earl, though he mentioned this as one of the laws which he particularly disapproved, complained not of the severity of its penalties: he objected to the principle of the law: he contended that it lays a restraint upon private conscience, exacting the payment of a fine for not doing that which to do might be contrary to conscience.

My lords, I think this a fair objection against the law as it stood originally, in the time of queen Elizabeth; when the subject was not indulged in a freedom of choice between the established church and other modes of worship: but, my lords, it is no objection now against the law, as it is modified by the acts of toleration,—first by the 1st of William and Mary, and since by the 19th of the present King. By virtue of these statutes, any legal meeting-house to which a dissenter may choose to resort is to all intents and purposes of the 1st of Elizabeth cap. 2, his parish-church. Whoever dislikes the rites of the church of England is secured from all penalties by a regular attendance on divine worship in a regular meeting-house of any denomination. My lords, I can see no severity in the statute of Elizabeth thus modified and mitigated by the toleration acts. But the noble earl put the case of a conscience that might scruple public worship in every shape: his lordship quoted our Saviour's admonition to his disciples to avoid osten-

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tation in their private devotions, as what might be understood as a prohibition of the practice of worshipping at all in public: and he thought the statute of queen Elizabeth a constraint upon the conscience of a man who should so interpret our Saviour's maxim. My lords, I understand very well that men may think differently of particular modes of worship,—that the conscience of one man may scruple what another approves; but I had no little apprehension that conscience could doubt the propriety of public worship in every shape that I really thought the noble earl was not in earnest in that part of his argument. My lords, the noble earl was in earnest; his lordship has since mentioned an instance to me of a person, in the circle of his own connexions and of my acquaintance, who was afflicted with one of those strange consciences; a nobleman eminent for the probity of his character and the severity of his morals, who, from conscientious scruples, never in his life mixed with any congregation of Christians in their public rites. My lords, I am compelled by this instance to admit, that that sort of conscience, which I thought a mere fiction, may exist; and I must admit that the statute of queen Elizabeth lays some degree of force upon such a conscience. I must therefore beg your lordships' indulgence while I say a few words upon this great question of the right of private conscience; which I think is not generally understood.

My lords, the noble earl, in the second clause of his bill, lays down this maxim, that the right of conscience is and ever must be "the unalienable right of mankind; and as such, ought always to be held sacred and inviolable." My lords, I agree entirely with the noble earl in that maxim. I am not certain that his lordship will agree with me in what I am going to advance;—I think he will; for I really think no one can differ from me who allows that civil government is a thing consistent with the revealed will of God. My lords, the right of conscience is unalienable; but it is not infinite, it is limited. The right of conscience is unalienable within the limits of a certain jurisdiction. Conscience and the magistrate have their separate jurisdictions; each is supreme, absolute, and independent, within the limits of their own. The jurisdiction of conscience is over the actions of the individual as they relate to God, without reference to society: conscience judges of what is sinful or not sinful in our actions. The jurisdiction of the magistrate is over the actions of men as they respect society: he is the judge of what harm may or may not result to society from our actions; and this harm he has a right to restrain and to punish, in whatever actions he descries it, in defiance, my lords, of the plea of conscience. In the exercise of this right, the civil magistrate is supreme and absolute, as conscience in the exercise of hers. Conscience cannot be conscientiously pleaded against the magisrrate in the exercise of this right. My lords, if the principle which I advance is rightly taken, I shall not be suspected of wishing to narrow the limits of toleration. My lords, I advance a principle which carries toleration to the utmost effect to which it can be carried, consistently with the security of civil government. My lords, according to my principle, the magistrate has no right to punish an action, be it ever so sinful, merely because it is sinful; he has no right to punish it, unless beside the sin it contain crime,—that is, harm to society. Thus, in the instance of perjury: perjury is an action sinful in so high a degree that the sin may justly be considered as by far the greater part of the whole guilt; and this action is punished by the magistrate: but the object of the magistrate's animadversion is not the sin of the action, enormous as it is; but the crime of it—the harm it brings to society: an oath is the very first and highest of all civil obligations and securities; and society must break up were perjury to go unpunished. My lords, I think I have been fortunate in falling upon this instance for the illustration of my argument; because it will serve as a principle to determine the extent of the magistrate's authority over the religious conduct of the subject, notwithstanding any plea of conscience. My lords, since the magistrate has a clear right to punish perjury on account of the ruin it would bring upon society, he has, upon the same ground, a right to punish whatever tends to render perjury frequent —whatever tends to lessen the general veneration of an oath. My lords, upon this principle, the magistrate has a right to restrain and punish open atheism, and the disavowel of God's providential government of the world. And, my lords, we must go one step farther: since the magistrate, in this country, believes that he is possessed of a written revelation

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of God's will, he must punish the open disbelief and denial of that revelation: he has no right to persecute particular opinions, however erroneous, of sects professing a general belief in the revelation; but he has a right to punish the general disbelief and total rejection of it. And since he has a right to punish atheism, a disavowal of God's providence, and a total rejection of the Christian revelation, he has a right to restrain and punish actions, in which, as they are interpreted by the general sense of mankind, these pernicious opinions are implied: he has therefore a right to restrain and to punish the neglect of public worship, which is one of those actions: and any man whose conscience is of that singular construction as to disapprove all public worship, would deal but handsomely by his country in submitting cheerfully and silently to the very moderate penalty which our laws impose. My lords, besides this statute of queen Elizabeth, the bill upon the table, should it pass into a law, will repeal the 29th of Charles 2, cap. 7, for the better observation of the Lord's-day; and from this time forth, stage-coaches and waggons will travel the road—watermen will ply upon the Thames—hackney-coachmen in the streets, upon the Lord's-day as on any other, under the express sanction of the law. The bill will also repeal the act of 27th Henry 6, cap. 5, against the keeping of fairs and markets on the Lord's-day; for the bill takes away all prosecution in any court for the neglect of any rite or ceremony of the church of England. The observation of the Lord's-day is enjoined by these laws only as a ceremony of the church; therefore all prosecutions are staid that might be founded upon these statutes, and the statutes are virtually repealed.

My lords, I should now consider the effect of this law upon the ecclesiastical jurisdiction; but I fear your lordships are already tired with the length of this dry debate. I shall therefore confine myself to a few short remarks upon points which I think have not been touched by the right reverend lords who have gone before me. My lords, the bill goes to the abolition of the ecclesiastical jurisdiction in all offences against religion. The noble earl, in his speech on the first reading, expressed great dislike of the ecclesiastical courts: his lordship thought it a great objection, that the mode of trial in them is not by jury. My lords, will the noble earl extend this objection to every court in which he finds the same defect? Has the court of chancery a jury? has the admiralty court a jury? Would the noble earl abolish the jurisdiction of every court in which the mode of trial is not by jury? I do not remember whether his lordship made another objection to the ecclesiastical courts, which, in my opinion, is of much greater weight,—their way of taking the depositions of witnesses; not *vivâ voce*, by examination and cross-examination in the presence of the parties and their counsel, but by answers given in private to written interrogatories. My lords, in my judgment this practice in the ecclesiastical courts is a thing much more exceptionable than the want of a jury; and, to confess the truth, my lords, I am one of those who think that the change was much for the worse which was made by our Norman kings, when they separated the ecclesiastical from the secular jurisdiction. My lords, the change was much for the worse: but I beseech your lordships to remember that it is now seven hundred years old. We are got to such a distance from the period when the change took place, that the present practice has acquired the authority of a venerable prescription; and the attempt to bring things back to their former state might not be very politic. My lords, instead of troubling your lordships with any arguments of my own upon that point, I will beg your permission to give you the opinion of the great judge Blackstone, in his own words. (Here the bishop read from his notes a paragraph from judge Blackstone's Commentaries, to this effect: "It must be acknowledged, to the honour of the spiritual courts, that though they continue to this day to decide many questions which are properly of temporal cognizance, yet justice in general is so ably and impartially administered in those tribunals, especially of the superior kind, and the boundaries of their power are now so well known and established, that no material inconvenience at present arises from this jurisdiction still continuing in the ancient channel; and, should an alteration be attempted, great confusion would probably arise, in over-turning long established forms, and new modelling a course of proceedings that has now prevailed for seven centuries."—Commentaries, book 3, cap. 7.)

My lords, these were the sentiments of judge Blackstone: the noble earl's are different. My lords, the noble earl spoke

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with high disapprobation of the canons by which our spiritual courts are directed: he told your lordships they were an invention of the same age with the absurd childish statutes against witchcraft. My lords, in that point of history the noble earl was not quite accurate; for though it be true that the canons which we now use were set forth in the reign of king James 1, not one of them, as far as my recollection goes, was an original fabrication of that age. My lords, the canons of 1603 are a compilation from the canons of all former ages,—a selection of such rules as seemed suited to our civil government and to the constitution of a Protestant episcopal church. The noble earl, in disparagement of these canons, produced the third as a specimen of the folly and mischief which they contain: he told your lordships that this third canon breathes such a spirit of ambition and priestly lust of power as is not to be borne. Now, my lords, the truth is that the scope of this canon is just the reverse of what the noble earl supposes it to be: the scope of this canon is not to support church power, but to moderate church power, by maintaining the supremacy of the secular magistrate. The canon says—"Whoever shall hereafter affirm that the church of England by law established under the king's majesty is not a true apostolical church, teaching and maintaining the doctrine of the apostles, let him be excommunicated *ipso facto*," &c. Observe, my lords, how the church of England is described,—"the church by law established under the king's majesty." When we separated from the church of Rome, the Papists were perpetually insulting us, as no church, because by making the king the head of the church we had given the supremacy to a layman. The canon meets this insult: it affirms that the church of England is a true apostolical church, notwithstanding that she have a layman for her head; and it pronounces every one excommunicate who shall dare to deny this. My lords, the impugners of the king's majesty's supremacy, not the enemies of extravagant church power, are the persons whom this canon anathematizes. My lords, I mention this only as an instance how much the noble earl has seen things by a false light in this subject.

My lords, before I sit down, I must beg leave to take notice of one thing which fell from the noble earl, as it appears to me of a most dangerous tendency. The noble earl took occasion to say that the canons are not binding even on the clergy. It has long been a maxim (to be understood however with many exceptions and restrictions), that they are not generally binding on the laity; but the noble earl is of opinion they are of no force even against the clergy. The noble earl seemed to found this opinion upon some statute, which, as he interprets it, amounts to a repeal of all canons universally. My lords, I guess that the statute that the noble earl had in contemplation was the 13th of Charles 2, cap. 12. (Here the bishop went into a minute discussion upon this statute; many parts of which he read at large from his written notes. He said that the design of this statute was to explain an act of the 17th of the former king, which had been passed to repeal an act of the 1st of Elizabeth, concerning the commissioners for causes ecclesiastical: a doubt had arisen on the construction of this statute of repeal, whether it had not taken away all ordinary power of coercion and proceeding in causes ecclesiastical: this doubt gave occasion to the act of the 13th of Charles 2, to explain: the explanation in brief was this, that nothing of the ordinary jurisdiction was taken away by Charles 1st's statute of repeal: but, that a contrary doubt might not arise upon the construction of this act of explanation,—that it might not be understood to give new powers to the ecclesiastical judges, but simply to restore the old,—a proviso is added at the end, that nothing in this act contained shall be construed "to extend to give any archbishop, bishop, &c. any power or authority to exercise, execute, &c. which they might not by law have done before the year of our Lord 1639; nor to abridge or diminish the king's majesty's supremacy; nor to confirm the canons made in the year 1640; nor any other ecclesiastical laws or canons not formerly confirmed, allowed, or enacted by Parliament, or by the established laws of the land as they stood in the year 1639.") My lords, I imagine that it is upon this proviso of the 13th Charles 2, cap. 12, that his lordship builds his new doctrine that the canons of 1603 are totally repealed. But, my lords, this proviso goes to no such effect: it repeals nothing; it only confirms nothing; its effect is merely negative: it is studiously so worded, as neither to give the ecclesiastical canons any authority which they had not, nor to deprive them of any

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which they had, by the statute or the common law as it stood in the year 1639. Yet this proviso is, as I guess,—his lordship will correct me if I am wrong,—this proviso, as I guess, is the foundation of his lordship's singular opinion. (Here the bishop paused, and earl Stanhope shook his head.) My lords, the noble earl seems to tell me I am wrong: why then, my lords, I am totally at a loss to conjecture on what foundation the noble earl's opinion can possibly stand. My lords, if it has no foundation, it is unnecessary for me to go about to confute it; but, as I am apprehensive that the notion may be very mischievous, if it should go abroad into the world clothed with the authority of his lordship's name, I must observe, that the obligation of an oath lies upon the conscience of every clergyman to submit to the canons whenever his diocesan may think proper to enforce them.

My lords, I have too long engaged your lordships' attention. My objection to the bill upon the table is—the generality of its operation; and, for that reason, I agree with the right reverend prelates who have gone before me, that the House ought to proceed no farther with it.

Earl *Stanhope* began his reply with saying, that though their lordships had been told, that here, as in a certain country, no man should be allowed to propose a law, but with a rope about his neck, he meant, when the present question was disposed of, to propose another law immediately against ecclesiastical tyranny; a tyranny so gross and scandalous, that it would disgrace the inquisition. Having said this, his lordship proceeded to defend his bill, and as a justification of the necessity that called for it, he read a canon of the church respecting the casting out of devils, and another respecting the enforcement of the attendance on religious worship, which ordered, that if a man be bald and had no hair on his head, so that he was in danger of catching cold, he must nevertheless go to church, but he might wear a night-cap. Having exhibited several of these absurdities, his lordship said, he felt it his duty to return his sincere thanks to the several reverend prelates who had spoken on the subject, for the very great trouble they had saved him, those of the reverend bench who had delivered their sentiments having successively contradicted and refuted the arguments of each other. But with regard to the reverend prelate who had spoken last, his argument had been so different from the other bishops, that he merited his particular attention. The learned prelate had argued clearly and ably. He could understand his meaning distinctly, he could ascertain in what they agreed, and knew at a glance the exact point on which they separated. The reverend prelate had said, "that there were laws in existence which did no credit to the times in which they were made," and he had afterwards said, "that the jurisdiction of the magistrate should be confined not to those things which were merely sinful, but only to such as were injurious to society." He agreed with the reverend prelate, that such was the distinction. His lordship added a variety of other arguments to prove the ecclesiastical law abominable in practice, that it did not adhere to its professed maxim of jurisdiction *pro salute animi peccatoris*, and urged the necessity of going into a committee with the bill, to examine what laws ought to be repealed and what ought not. He said he wished to shorten the debate in order to go into one still more important, respecting tythes. Before he sat down, he declared, that his great objection to the laws existing, in regard to religion, was, that he detested compulsion in matters of conscience; and he declared, he objected to the principle of the laws he wished to see repealed, and not to the extent of the penalties merely. The arguments used that day reminded him of a bill introduced in the reign of Henry 7, repealing all laws against priests for crimes of every denomination committed by them, and among others for all rapes committed by men of their order. He rendered this allusion pleasant, by stating, that the argument against the bill had been, that a rape implied compulsion, and compulsion ought always to be considered as reprehensible and punishable; to which the priests answered, that it was a very gentle kind of compulsion that they had resorted to.

Viscount *Stormont* assured the House, that he should be particularly sorry, on the noble earl's account, to see the ancient practice revived, of obliging the proposer of every new law to have a rope round his neck, when he made the proposition. He next paid some high compliments to the reverend bench, declaring that they had that day, in his humble judgment, done themselves infinite credit, and urged arguments that would hold their sacred characters high in the

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public opinion. He afterwards adverted to the Bill, and after complimenting the noble earl on the goodness of his intention, and the general ability with which he brought forward any measure of a public nature, said, he conceived the noble earl had not looked at the subject with his usual accuracy. The more regular method of bringing so important a topic under discussion, would have been, to have first moved for a committee to revise the various laws existing relative to toleration, and to have suffered the House to have been guided and governed by their report as to their future proceedings in it. His lordship rescued the reign of William 3, from the imputation of a propensity to encourage intolerance, and touched upon some parts of the arguments of the reverend prelates, with whom he appeared to concur in a great measure, particularly with the definition of the legal exercise of the right of opinion of conscience, as laid down by the bishop of St. David's.

Earl *Stanhope* said, he was determined to persevere, and if the right reverend bench would not suffer him to load away their rubbish by cart-fulls, he would endeavour to carry it off in wheel-barrows, and if that mode of removal was resisted, he would take it, if possible, away with a spade, a little at a time.

The Bill was upon the question thrown out. Earl Stanhope then produced another bill, which he offered to present, and which was "A bill to repeal an act of the 27th of Henry 8, to prevent vexatious suits relative to prosecutions for tythes from the Quakers;" but after a short conversation, he agreed to make the motion for presenting the bill on a future day. The noble earl said, that in all probability his second bill would meet with the same success as the first. The lord chancellor seemed to nod assent; upon which lord Stanhope replied, "on another occasion I shall teach the noble and learned lord law, as I have this day taught the bench of bishops religion."

Debate in the Lords on the Treaty of Defensive Alliance with Prussia.] May 22. The order of the day for summoning their lordships, being read,

Viscount *Stormont* rose. He said, that his principal object was to put a single question to ministers relative to the treaty with the king of Prussia: The question he wished to receive an answer to was, whether the paper upon the table intituled, "Copy of a defensive treaty between his majesty and the king of Prussia," stated the whole of the engagements into which his majesty had entered with the king of Prussia or not? The reason of his putting this question to the noble duke opposite was, the prevalence of certain rumours both at home and abroad, according to which, his majesty had entered into other engagements varying in their principle, and totally changing the character, tendency, and condition of the treaty on the table, and converting what was in name a defensive treaty, into a treaty of a very opposite nature. Such rumours were likely to produce consequences highly detrimental to the interests of Great Britain if suffered to gain credit. It was, he well knew, in the discretion of ministers to lay any papers of the nature of that upon the table before parliament; but, when they used his majesty's name, and declared that they had his commands for laying the copy of a treaty before parliament, they were bound to lay the whole of the treaty before both Houses, and not to withhold any part of it, much less those parts which materially altered the whole of its purport and effect. The reason of this duty in ministers was obvious. No paper of public importance was submitted to parliament with any other view, than for parliament to form an opinion concerning it; and unless the whole of the treaty was submitted to them, how was it possible to form an idea respecting its advantages and disadvantages? The noble duke would, he presumed, be under little difficulty in giving him an answer to his question. If the copy of the treaty did contain the whole of the engagements entered into between Great Britain and Prussia, and the treaty was a defensive treaty, properly so called, the noble duke's answer would be short and easy, and there would be an end at once of the mischiefs which he dreaded. If, on the other hand, it should turn out, that other engagements had been entered into, which varied essentially from the general complexion of the treaty on the table, and changed that which was in name a defensive treaty, into a treaty offensive in its immediate effect, and likely to involve this country in an actual and speedy war, much more would remain to be said, both as to the conduct of ministers in having advised such a treaty, and in their disrespect of parliament, in laying upon their table a mutilated and falacious copy of a paper, when they had it in com-

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mand from his majesty to submit the copy of the treaty.—It remained for him to say a few words as to the point of order, with regard to the manner of his calling for an answer to the question that he had stated. There were, as their lordships well knew, two parliamentary modes of obtaining information respecting great and important public considerations. The one was, when the House thought proper, by address to his majesty, to call for particular information to be laid before them. When that mode was adopted, it generally answered the end. But it was not always necessary to resort to it. Individual peers, as members of parliament, were not under the necessity of going through the formality of addressing the Crown, but had a right to put questions to ministers in their places, wherever the occasion appeared to justify such personal appeals, and it remained for ministers to exercise their own judgment and discretion, and answer or not, as they thought most advisable. This right their lordships derived from the circumstance of their being hereditary counsellors of the Crown. Thence it was, that every one of their lordships had a right to solicit, what no one of them was entitled to command. That putting questions to ministers by individuals was a practice consonant to the usage of parliament, there had been so many instances, that it was altogether unnecessary for him to dwell upon them. Many questions of the kind had been put to ministers by individual members of parliament, and that they had often been answered satisfactorily was a fact beyond dispute. There were many noble lords in the House, who had been present when ministers, during the late war, had been asked, what was meant by the Spanish armament which had, at a particular period, put to sea? On that occasion, his late noble friend, the earl of Rochford, without the smallest difficulty, had risen and said, that though the appearance of such an armament in the neighbouring seas was alarming, their lordships might rest assured that this country had nothing to fear from it, the object of the Spanish armament being to go against Algiers; a declaration which the event fully justified. There were also noble lords present, who might remember several questions which had been put to ministers, while he was necessarily absent, being engaged at a foreign court at the time, and similar questions had been stated after his return to England, all of them relative to the American war, and to the conduct of foreign powers who had taken a part against Great Britain, the most unprovoked that ever one country took against another. These were questions of general policy; there was, however, a wide distinction between them and the question which he had just stated. The last was of a very different nature. The question which he had put to the noble duke related to a paper actually on the table, which either he or any other individual peer could bring under consideration, whenever they thought proper to make a motion for that purpose.

The Duke of *Leeds* said, the noble viscount had, with great propriety, termed what had passed a conversation. The part which he should take in that conversation would be extremely short, and he should have been sorry if a question so irregular as that stated by the noble viscount, could have been made the subject of debate. He was the more astonished that such a question could have come from a noble peer, who had been understood to set himself up as the oracle of every thing that concerned diplomatic duty and etiquette. Had the noble viscount been himself in office, and such a question had been put to him he was persuaded the noble viscount would have reprobated it, and treated it with the disdain that was due to it. He felt it to be right to give the question no answer whatever; and the noble viscount well knew, that in so treating it, he did no more than his duty. By his majesty's command, he had laid the treaty with Prussia on the table. The House were perfectly competent to take that paper into consideration whenever they thought proper; and if upon examination it should be found to contain any point dangerous to the interests of Great Britain, those who had advised the measure were ready and willing to answer for it.

Viscount *Stormont* said, that the doctrine of ministers that day was altogether unparliamentary. With regard to the treaty on the table, from the silence of the noble duke, his fears that the rumours abroad were true, had increased: *dum tacent clamant*. It was highly disrespectful to parliament to treat the House in that manner. It had been stated in the speech, at the opening of the session, that his Majesty had entered into a defensive treaty with the king of Prussia. The House had a right to know the whole of the treaty, whether it was a defensive treaty, properly so called, or whether there

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were other articles varying in principle and effect from the treaty, the copy of which lay on the table. Ministers were bound to lay the whole before parliament, or none; because, otherwise, they furnished parliament with an illusory paper, calculated not to inform but to mislead them. Viscount Stormont entered into a discussion of the nature of the power possessed by parliament over treaties; if it were a subsidiary treaty, and they disapproved of its conditions, by refusing to enable his majesty to fulfil them, they could virtually rescind it. He thanked God, there was another sort of treaty, over which they had no control of that nature. It was not fit that they should have any. But even there, if they did not approve the terms of the treaty, they could address the Crown to know who were his majesty's advisers, and thus enable themselves to pass a censure on those who gave evil advice to their sovereign. The doctrines of ministers, as to the construction of treaties, as exemplified in the present case were most extraordinary. He described the facts to be an engagement with Prussia and Holland, in case Denmark did not consent to withhold her stipulated succours from Russia, to furnish Sweden with a certain number of troops upon demand. He hinted, that one condition was, that in case a mediation was tendered to, and refused by, the party attacked, they became suddenly the aggressor. This was contrary to every principle of politics, hitherto made the ground and rule of treaties. After dwelling on what he stated to be a singular novelty, he took a view of the different interests of Great Britain, and the powers at war in the North. Sweden, he described as the favourite of the day, and Sweden, he said, he had ever considered as the natural ally of France; an ally constantly subsidized by her. Denmark had never done any thing adverse to the interests of Great Britain, and yet we took part against her. Russia was our natural ally, and though a country might not always have it in her power to effect a reconciliation with her natural ally, it was always her interest not to do any thing to widen the breach, and render reconciliation more difficult. He was ever ready to give ministers credit, when they merited it. They were intitled to praise for rescuing Holland out of the arms of France, and they did wisely in making use of their ally, the king of Prussia for that purpose. But they ought to lead Prussia, instead of suffering Prussia to draw them into a connexion engaged in actual war. He asked, whether the granting France the port of Gottenburgh, at the end of the American war, thereby giving her the command of stores, and enabling her to refit her navy at a northern port, adjoining to the mouth of the Baltic, was the peculiar mark of Sweden's predilection for this country, which entitled her to be now considered by Great Britain with such partiality? He declared, he could not but admire the felicity of France. He envied not France her great and powerful resources; he envied her not her able and accomplished minister. The king of France had a right to the benefit of his own choice. He could patiently look on her embarrassments, with that sort of philosophy with which France would, doubtless, contemplate our difficulties; but what he envied was, the singular good fortune of France, in having her natural ally supported and assisted by her natural foe, when she could not herself either assist or support her. In the present case, looking to future events, there was a common interest between France and Great Britain, in getting Sweden: and though there was some odium, some difficulty, and some expense in the business, Great Britain stood forth with a degree of unexampled spirit, and desired to bear the odium and the burthen of the whole.

The *Lord Chancellor* said, that if the noble viscount's doctrine obtained, that the whole of all treaties must be submitted to parliament, no treaty with secret articles could be entered into. He was proceeding to state the various instances of such treaties having been entered into by Great Britain, when he was set right by viscount Stormont, who said, his objection was, that the articles withheld from parliament, varied the whole sense and effect of the copy of the treaty produced, and not that they were secret articles. The lord chancellor resumed his argument, and remarked, that undoubtedly the position was somewhat changed; he now understood the noble viscount to allude merely to such secret articles of a treaty as were founded in contrarient principles to those of the public treaty. He mentioned the case in 1743, when a motion for an address to the Crown had been made on the subject of a treaty, and negatived. The same he was persuaded, would have been the case in the present instance, be-

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cause the noble viscount's question was the most obviously irregular question that ever had been put to a secretary of state in parliament, and if the noble duke had answered it, he would have been guilty of a high misdemeanor. It was the bounden duty of a secretary of state to disclose no more of the affairs of the executive government, than he had it in command to state to the House. If the question had been less exceptionable, and the noble secretary had been disposed to favour the noble viscount, on the present occasion, to a singular extent, all he could have done would have been to have declared that he would ask his majesty's permission to be allowed to answer the question. Extreme caution was necessary to be observed in the conduct and management of all negociations tending to forward a great political measure, which the peculiar circumstances of the times might render an object of importance; and which might not be the less so, though it might tend to create a new balance of power in the North. He was without the power, even if he had the inclination, to oblige the noble viscount, by a disclosure of the events to which he had alluded; but without hazard of any thing but his own judgment, he might venture to allude, hypothetically, to the politics of the North, and to put the case, if matters were circumstanced in such peculiar predicaments, what the probable consequences were, that might be expected, and how the expectation of those consequences ought to operate upon the conduct of this country, or any other of the southern states of Europe. He here took a view of the present situation of affairs in the North, and observed, that there had been states, the policy of which was so refined in practice, that their ministers had thought, for the sake of attaining their end, it was justifiable to corrupt the magistrates of their enemies, and to bribe their armies and their leaders. Those arts were not now necessary to be resorted to; but there were some statesmen so crafty, that they would find means to get hold of men to use them as instruments to feel the pulse of the public on great questions, when they might wish to know beforehand how they would be taken. The higher and more respectable the characters thus worked upon, the better the end of the secret principles would be answered. Various might be the means resorted to for this purpose. A paragraph might be first sent to the newspaper of a particular complexion, that might be made the ground-work of others, written on both sides the question. Other plans of furthering the object might be pursued; till the rumour by these causes gathering strength might impress the minds of men, who, not aware of the consequences, might introduce it into the Houses of Parliament, and thus, in a moment of unguardedness, the aim of those with whom the whole scheme originated might be answered. Certain he was, that no member of either House would knowingly become the dupe of such practices, or act as the instrument of the plan wittingly in the first instance; but through the medium of an acquaintance with foreign ministers, from an idea that they were more conversant in the affairs of Europe than other men, or from some other accidental circumstance, they might be made the instruments in question. The lord chancellor took notice of the doctrines with regard to the construction of treaties, which the noble viscount had imagined ministers disposed to entertain, and assured him that his speculations on that head were all groundless. He spoke of the gratitude of courts, and said, the noble viscount, from his own experience, must have known how little the gratitude of courts was to be depended upon when the political interest of the day counteracted it. The cement of connexion, even when founded upon subsidies, had often proved so rotten, that it would hold together no longer than while the subsidies were regularly paid. With regard to Russia, he was as anxious as the noble viscount to obtain an alliance with the court of Petersburgh; but what was most desirable was not always to be attained, even by courtship, on fair and honourable terms; and, therefore, wise states must resort to that line of conduct most conducive to their object.

Debate in the Commons on the Bill for the Cultivation and Preservation of Trees, &c.] May 20. Mr. *Mainwaring*, having adverted to an act of the 6th of his majesty, relative to the preservation of trees, shrubs, and plants, observed that it had been found inadequate to its end, and had failed to reach the object which it was in the contemplation of the legislature to obtain when the act passed. The better to explain his meaning, he would read the preamble of the statute in question, which he accordingly did, and which stated that the bill was deemed necessary for the

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better preservation of trees, roots, plants, and shrubs; and it therefore enacted, that whoever should be convicted of breaking trees, plucking up plants, roots or shrubs in the night time, should be considered as guilty of felony. As the bill stood, the taking away and destroying of trees, plants, and shrubs, in the dead of night, was alone made felony; so that if any person came into a garden before it was the dark hour of the night, while it was twilight, or in the morning early, before it was sun rise, or sufficiently broad day to distinguish who the offender was, he might with impunity break the trees, pluck up plants, roots or shrubs, and destroy the most valuable produce of the gardener's continued pains, labour, and expense with impunity. At least the only remedy that the law in such cases gave, was an action of trespass, which, for a variety of reasons, was nine times out of ten no remedy at all. Mr. Mainwaring compared the magnitude of the injury which might be done the subject, in the way he had described, with the injury sustained in his being robbed of a spade, a garden-rake, or any other instrument of horticulture, of trifling value, all of which were deemed property by the statutes in being, and protection was afforded to their owners, by its being deemed felony in any man convicted of stealing them. Another very great inconvenience arising from the law as it stood at present was, the extreme difficulty of establishing by evidence what was the dead of the night. On this hinge of doubt, a great many cases had turned, and numerous offenders, evidently guilty of having done the most essential injury to the property of individuals, had escaped conviction, because, unless it could be clearly proved, that a man who broke the trees, and plucked up the plants, roots or shrubs, did it at the dark hour of the night, he did not come within the meaning of the statute, the preamble of which he had just read. For these reasons, he meant to move for leave to bring in a bill to amend the act of the 6th of the present King. He was aware of the proper aversion of the House, to the extension and increase of the penal statutes. Their number, undoubtedly, was already too great; but there were cases which might be stated, that were too glaringly injurious not to demand some remedy; and the case in question was so obviously injurious and unprovided for, that he trusted no objection would be made to his bringing in the bill of amendment, especially when he declared, that the single amendment he should propose, would be to leave out the words "by night," and insert the words "by day or night." He then moved, "That leave be given to bring in a bill to amend an act, made in the 6th of his present Majesty, intituled, 'An act for encouraging the cultivation, and for the better preservation, of trees, roots, plants, and shrubs.'"

Mr. *Sheridan* was glad to hear the hon. gentleman profess himself an enemy to the extension and increase of the penal laws. There were so many of those statutes, and in several cases they were carried to so extreme a degree of severity, that they were a disgrace to the law books and to the country. He hoped, therefore, that the House would always look with a peculiar degree of delicacy on every endeavour to increase the number of penal statutes, and to multiply robberies, felonies, and offences coming under those descriptions. With regard to the object of the proposed bill, he did not clearly comprehend it. The hon. gentleman had said, the legislature, when it passed the act of the 6th of the present King, had one thing in their contemplation, and had enacted another. Was the fact strictly correct, or was it under the pretence of protecting nursery grounds to make it felony in a school-boy to rob an orchard, or was it, that gooseberry bushes ought to be fenced round with gibbets, that the hon. gentleman now moved for a bill of amendment? If it was intended to go such an extent, it would be carrying the penal laws to a degree of rigour that would be ridiculous.

Sir *Joseph Mawbey* said, that the only object was, to leave out the word "night" and to let the matter stand generally; many persons clearly guilty of having destroyed trees, shrubs, and plants, in gardens, with a felonious intention, having from the present form of the statute, escaped conviction. He reasoned upon the injustice of the law as it stood, and declared he never could see why people who robbed at any other time ought not to be deemed as guilty of felony, as those who robbed at the dark hour of the night. He reminded the House of the infinite injury that might be done to gardeners nurserymen, and other persons who had shrubberies and gardens, by having their grounds stripped of their valuable flowers, plants, shrubs and trees.

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Lord *William Russell* considered the motion as strictly proper for the purpose of preventing the great injury which nurserymen and gardeners sustained from depredation by day as well as by night. They were entitled, in common with the rest of the subjects, to call upon the legislature to afford them protection for their property.

Mr. *Hussey* in answer to the observation, that there was no difference between offences committed in the night or in the day time, added that, in his opinion, there was an essential difference. Burglary and stealing in the night was a capital offence whereas stealing by day was only a single felony, because people were supposed to be capable of guarding their houses in the day time.

Sir *Joseph Mawbey* said, that the proposed bill was not an extension of capital offences; had that been the case, he would, have opposed it. The object in view was, merely to make that a single felony if committed by day, which the law, as it stood, pronounced to be felony, if committed by night. All he contended for, was that the same injury done to an individual's property by day, ought to have the same remedy by law, which the law gave where it was done by night.

Alderman *Le Mesurier* reminded the House, that most of the great nurseries and gardeners grounds were situated near the public roads, and within ten miles of the metropolis. Gentlemen must have observed that many of the nurserymen's plantations were wide and extensive, some of them covering several acres; and that their pailings and fences were for the most part low, and might be so weak and out of repair, as to afford a very insufficient security against the inroads of robbers and spoilers. Though many of the nurserymen and gardeners were at the expence of having watchmen by night, yet they might be robbed before it was quite dark, when it would be impossible were the watchmen in that part of the garden to ascertain the identity of the robbers.

Mr. *Windham* expressed his concern at perceiving a disposition prevail in favour of the extension of the penal laws of late, which he conceived the House ought to guard against as a very great evil. Those laws should not be extended, but where the necessity was urgent, and the case made out a very strong one, which he could not conceive to have been the fact at present. The hon. magistrate had stated that the fences about the grounds of nurserymen were very slight, and therefore the nurserymen chose to fence themselves by statutes. Instead of providing for their own security, by proper and sufficient pailings to keep out robbers, as they ought to have done, it being the first and natural security for them to look to, they afforded robbers an opportunity of stealing their property, by rotten and insufficient pailings. The question to be considered was, what amount of penal laws does the security of human life require. Viewing the present motion with a regard to this consideration, he could not conceive it to be necessary, and therefore he should resist it. Day-light was of itself a security against robbery, and if that were not enough the nurserymen's caution ought to superadd others.

Mr. *Rose* said, that, as the law stood at present, it was difficult to convict a man, even if he stole in a garden in the night time; some alteration of the law was therefore so obviously necessary, that he hoped the bill would be permitted to be brought in. He could not see why a man who broke a garden fence in the day time and robbed the garden of valuable trees, shrubs, and plants, should not be as liable to be transported, as if he had broken through a hedge and stolen a horse out of the field which that hedge inclosed

Mr. *Hussey* asked if the judges had ever complained of the difficulty of conviction in the cases stated? So many years as burglary had been made a capital offence, he never had heard that they had been under the least embarrassment in distinguishing between a burglary and simple stealing.

Sir *James Johnstone* thought the penal laws were too numerous and too sanguinary and that the penalty which they inflicted was in many cases, infinitely disproportionate, to the offence to which it applied, and in most cases went far beyond it. Gentlemen talked of valuable property in gardens which might be stolen; did they mean pine apples? Let them have watchmen if watchmen were necessary. He should oppose the motion.

Mr. *Mainwaring* could not hear without surprise, an hon. gentleman's declaration that he did not understand his object. It had fallen within his own experience that it was extremely difficult to convict a man of stealing in a gardener's grounds by night even, on account of the wording of the act; and it was in consequence of

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that knowledge, and at the earnest desire of all the most respectable nurserymen and gardeners in the vicinity of the metropolis, that he made his motion. With regard to a nurseryman or gardener being obliged to hire a watchman to take care of his property, it was unnecessary. The law of this country said no such thing. The law was looked up to as the protector of all property, and nurserymen and gardeners were as much entitled to its protection as any other description of subjects.

Mr. *Wigley* reminded the House of a circumstance which he conceived, must strike them forcibly, and that was, that if any man entered a gardener's ground by day, and took away any tree, plant, or shrub, after it was taken out of the ground, it was felony, whereas, as the law stood, if a man rooted up either, and actually destroyed it, it was no criminal offence, but merely a trespass. This circumstance considered, together with the shameful inadequacy of the law, as it stood, with regard to its application to each of the before mentioned offences, he thought that some regulation was absolutely necessary.

The House divided:

Tellers.

Yeas	Mr. Mainwaring - - Sir Joseph Mawbey -	30
Noes	Mr. Hussey - - - - Mr. Windham	6

Leave was accordingly given to bring in the bill.

May 28. The Bill was read a second time. On the motion that it be committed,

Mr. *Windham* said, that he should oppose the progress of the bill, because he remained thoroughly convinced of the impropriety of unnecessarily multiplying or extending the penal laws. Every penal law was itself an evil, and justifiable only inasmuch as it went to prevent a greater evil. The aid of the law ought never to be called in till men had done as much as they could for their own protection. The gardeners, so far from having done this, left their property often without the protection of a common fence, and called on the legislature to do that for them which they neglected to do for themselves. They wished to reduce things to the state they were in, in the days of Alfred, or the golden age,

——— Cum furem nemo timeret
Caulibus aut pomis te aperto viveret horto.

The *Attorney General* said, that he also should be concerned to perceive an accumulated institution of penalties disproportionate to offences, being convinced that such penalties always defeated their own end. But, in proportion as property was valuable, and, from its nature, exposed to depredation, it must be protected by the law. This was precisely the situation of nursery grounds, which contained very valuable property, and were necessarily much exposed. Even a brick wall, which could not be built but at a great expense, was a very inadequate protection. As the law stood, a man might rob a garden or a nursery-ground, of property to a great amount, by day, and follow the proprietor before a justice, where the penalty for the first offence was only forty shillings. In this case, the punishment was an invitation to the crime, and therefore he hoped the bill would be suffered to go to a committee who might settle a degree of punishment adequate to the offence.

Mr. *Mainwaring* meant to propose, if the bill should go to a committee, to put the offence on the same footing with swindling, which might, at the discretion of the court, be punished with imprisonment or transportation.

Mr. *Burke* said, that considering the whole system of the penal laws in this country as radically defective, as he always had opposed, so should he still continue to resist their intended multiplication. Instead of applying a remedy to the source of the evil, whenever inconvenience was felt in any particular instance, recourse was had to the legislature for a new law for that particular case. This was like sticking a bush into a gap in a hedge, which instead of repairing the breach, often ruined the whole fence. Against all offences which admitted of it, a civil was preferable to a criminal remedy, because the damage done could be appreciated by a jury, and not only punishment inflicted on the offender, but reparation made to the injured person. He observed that the insufficiency of the law was frequently not so much owing to the law itself, as to the remissness of those who were to put it in execution; and hence, the legislature was often called on to punish, by rigorous penalties, the negligence of the magistrates on the inadvertencies of the poor. He recommended a revision of the whole criminal law,

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which, in its present state, he thought abominable.

The House divided:

Tellers.

YEAS	Mr. Mainwaring - - - Mr. Attorney General -	41
NOES.	Lord Maitland - - - Mr. Windham - - -	11

The House acquainted that Mr. Speaker's Seat was become vacant.] June 5. The Commons being met, Mr. Hatsell the clerk at the table acquainted the House, that he had, this morning, received a letter from Mr. Speaker, which he read to the House as follows:

Whitehall, June 5th, 1789.

"Sir; His majesty having been graciously pleased to appoint me to the office of one of his majesty's secretaries of state, my seat in parliament is thereby become vacant. As this circumstance necessarily prevents me from any further attendance on the duties of that situation to which the favour of the House of Commons had called me, I must request you to communicate it to them at their meeting this day: and I must at the same time, intreat the permission of the House to avail myself of this opportunity of expressing to them my warmest acknowledgments for their great goodness and indulgence towards me, and of assuring them of those invariable sentiments of respect, gratitude, and duty, which will ever bind me to their service. I have the honour to be, with great truth and regard, sir, &c.

"John Hatsell, esq. W. W. GRENVILLE."

After which, and before any member spoke, the mace was brought into the House by the serjeant, and laid under the table. Then Mr. chancellor Pitt acquainted the House, that his majesty having taken notice that the seat in parliament of the right hon. William Wyndham Grenville, late Speaker of this House, was become vacant by his acceptance of the office of one of his majesty's principal secretaries of state, had commanded him to say, that, in order that there may be no delay in public business, his majesty gives leave to this House to proceed to the choice of a new Speaker; and, that it is his majesty's pleasure that this House should present their Speaker on Tuesday next, at two of the clock in the afternoon, in the House of Peers, for his royal approbation.

Debate in the Commons on the Choice of a Speaker.] June 8. The serjeant having brought the mace and laid it under the table,

The Marquis of *Graham* rose, and in a short speech passed an eulogium on the splendid talents of the last Speaker, who had, he said, been called upon by his sovereign to exert his abilities for the benefit of his country in a superior office of state, which consequently vacated his seat in parliament, and rendered it their duty to look for a proper successor to discharge the business of the chair. On the present occasion it gave him great satisfaction to propose a gentleman whose many qualifications pointed him out as every way proper for the great and important office, and afforded every reason to believe, that he would fill the chair with honour and credit to himself, and with advantage to the country. He would not pay the hon. gentleman to whom he alluded so ill a compliment, or indeed do him the injustice, to have it supposed that he was influenced by his friendship for him in the recommendation he was then making. He was actuated by other and very different motives. It was on account of his great abilities, which pointed him out as peculiarly qualified for the office. Bred to the law, and early an admirer of the constitution of this country, he had shown himself anxious to preserve it, and to secure the rights and privileges of parliament, conscious, that on their maintenance depended the existence of the constitution itself. One objection, perhaps, might be urged against the gentleman he was recommending, and that was his youth; but although he might possibly be as far advanced in years as some, and not quite so far advanced as others who had filled the chair, yet when the arduous and severe duties of the office were considered, his youth might rather be deemed an advantage than otherwise, as it would enable him to go through the fatigues of business with greater ease, and to fulfill the duties of the chair with better alacrity and spirit. It was, however, brilliantly conspicuous that his judgment had reached its full maturity; and of his talents that House had witnessed proof sufficient to convince them that he did not go too far when he assured them that those who had the happiness of the hon. gentleman's acquaintance, knew him to possess abilities of a very superior sort, and such as every way qualified him for the vacant office;

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he would therefore conclude with moving, "That Henry Addington, esq. do take the chair of this House."

Mr. *Grosvenor* seconded the motion. He said, that the panegyric pronounced upon the talents and the virtues of his hon. friend, by the noble marquis, was so thoroughly deserved, that he felt the utmost pleasure in adding thereto his tribute of applause.

Mr. *Welbore Ellis* reminded the House that he had lately recommended an hon. friend of his to fill the chair, which was once more become vacant, and he rose then, he said, for the same purpose. Having so recently had occasion to speak of his hon. friend's distinguished character, his many virtues and abilities, it would be superfluous for him to resume the theme, or enlarge upon them further. With regard to the hon. gentleman, whose name had been proposed by the noble marquis, he verily believed that he deserved the commendations that had been bestowed upon him, since the little he had seen of him in that House had been much to his credit. Every thing that hon. gentleman knew would certainly be requisite to enable him to discharge the duties of the chair, but, at the same time, the hon. gentleman must not be offended if he mentioned one disqualification which was obvious, and it was the want of that, which neither learning, nor ability, nor eloquence, but which only time could give — he meant experience; without which, with all his learning, and all his talents, it would be impossible for any gentleman, however distinguished for either, to ride on those whirlwinds and direct those storms which sometimes distracted that House; to steer safely in such turbulent seasons, required the most consummate skill, which could be attained only by experience. Let the hon. gentleman wait a while till his talents, which were undoubtedly respectable, should be matured by time, and till he should have acquired that experience which he had described. It was to that experience that they all looked up, and to that source only that they could refer for knowledge how the House ought to act in moments of difficulty and embarrassment. There might hereafter be another opportunity when the hon. gentleman might be chosen to fill the chair, and when he could take it with honour and dignity, by having his talents and his judgment matured by experience. He thought the House better adapted to the purpose of so maturing the hon. gentleman's talents, than the chair. At the same time, he would recommend his hon. friend to the chair, because his experience and ability had arrived at their utmost height. Let the hon. gentleman instruct himself by his hon. friend's conduct in the discharge of the duties of his office, and grow up under his shade. They might then expect him to prove such a plant as would in due season be a fit successor whenever the House should by any misfortune be deprived of the assistance of his hon. friend's abilities. He then moved, "That sir Gilbert Elliot, bart. do take the chair of this House."

Mr. *Montague*, who had on the last vacancy seconded Mr. Ellis's recommendation of sir Gilbert Elliot, rose to perform the same office again. He said he entertained much respect for the hon. gentleman's character who had been first named that day, but he thought he might say without any impropriety, that he had not had the honour of sitting long enough in that House with the hon. gentleman to know the extent of his abilities; what he had seen of him was to his credit, and he had heard of nothing to his discredit. Mr. Hatsell and he, however, had witnessed the splendid abilities and powerful eloquence of the late sir Gilbert Elliot, and the House well knew that those talents had proved hereditary. He must beg pardon for differing from the noble marquis who had made the motion, in regard to what he had said, when mentioning that the late Speaker had been called to a superior office. There was no office superior to that of filling the chair, nor any station, however high, in which the greatest and most splendid talents could be exercised with more dignity to the possessor, or more to the advantage of the state, than in the discharge of the duties of that situation. This was constitutional language, and must ever be held in that House at least; which made him, as an old member of parliament, think it his duty to take notice of what had fallen from the noble marquis. With regard to his hon. friend, besides that great constitutional knowledge which he was known to possess, he thought there were two qualities which peculiarly fitted him to fill the vacant chair, and those were that mildness of disposition and gentleness of manners, united with the greatest firmness and the most steady perseverance, which were predominant features in his

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character. These qualities were pre-eminently useful in the station in question; for, as was well said by his hon. friend, "to ride the whirlwind and direct the storm," required every degree of temper, mixed with every degree of firmness.

Mr. *Addington* rose next, and confessed himself agitated by feelings, that almost incapacitated him from expressing the degree of gratitude that impressed his mind, on having heard the noble marquis and the hon. gentleman who had seconded the motion, impute to him qualities, which they had been pleased to give him, but which he did not possess. All he could pretend to lay claim to, was an ardent attachment to the rights and privileges of parliament, and a sincere love for the constitution. He looked on the forms of parliament as the ancient and respectable bulwarks of that constitution,—and considered the rights of parliament as the rights of the people of Great Britain. But when he recollected the numerous and important duties of the chair, he could not but look on the office as a burthen which his abilities were by no means able to sustain, and he was forced to confess his insufficiency. He looked therefore round the House, and was ready to give his suffrage to him who was qualified to do justice to the situation; he had always cast his eyes on the hon. baronet as a gentleman possessed of the most eminent talents, and whose many virtues entitled him to the most profound respect and esteem. He concluded with repeating his expressions of gratitude for the handsome manner in which he had been treated by the several gentlemen, and said, that let the event of that day be what it might, he should ever retain the sentiments he felt at that moment.

Sir *Gilbert Elliot* began with declaring, that he entertained the most respectful sentiments of gratitude to the hon. gentlemen who had done him the favour to name him that day. He avowed, that he felt no small gratification in hearing opinions from the hon. gentlemen, which might inspire any man with a degree of self-satisfaction and pride; nor was that gratification at all diminished by the consciousness of not deserving, what they had been so good as to say in his behalf; because it was a flattering proof of that which he valued most highly, their kindness and partiality. He could not, therefore, but consider it as a singular honour to have been twice named to the chair by the same distinguished characters, and with having, on the late occasion, seen their choice countenanced by many of the most respectable men in that House, or in the kingdom. It was enough to reward in the amplest manner past merit, if he had any to claim, and to stimulate him to deserve the continuance of their good opinion for the future. He was one of those who thought the happiness and prosperity of the country depended on maintaining the importance of that House, and holding it high in the opinion and the feelings of the country. Whoever wished, like him, to make that opinion the radical principle of his conduct, would consider well in what manner the House should fill the chair before he gave his vote that day. He would remind the House, that although the chair was a situation which could give dignity and splendour to any man, of ever so distinguished talents, yet the dignity and splendour of the office would be diminished if the House placed those in it, who brought nothing of their own to support either. And he had not the least difficulty in making this declaration, when from that authority which he might best rely on, he could assert, that he did not possess the qualifications to which he had alluded. He hoped, therefore, that the House would rely on their maturer and more sound judgment, rather than the kind partiality of his friends. He reflected, however, with satisfaction, that the House held many gentlemen who were capable of adding splendour and dignity to the chair, and he had no doubt but the election of that day would prove the fact. After the liberal manner in which the hon. gentleman on the other side the House had been pleased to speak of him, it was incumbent on him to assure the hon. gentleman that he entertained the highest respect for his character and the best opinion of his abilities, he should therefore give his hearty and decided vote in his favour.

Mr. *Fox* said, that it was scarcely possible for any liberal mind to avoid feeling concern, when called upon to give judgment, to be governed by considerations altogether personal: to him it was peculiarly painful, but, on the present occasion, it would be less difficult for him, from the very just, the very fair, and the very handsome manner in which the two gentlemen had been pleased to speak of each other. He had had little opportunity of judging for himself of the abilities

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of the hon. gentleman who had first been named that day; but all that he heard from others had been much to his advantage. The noble marquis, in his opinion, had introduced his motion with a speech not the most happily adapted to the occasion; he knew not whether the noble marquis had said that the late Speaker was placed in a state for which he was better suited, as a matter of judgment, and from an idea that it would be proper for his purpose to lower the situation to which he meant to recommend the hon. gentleman, in order to induce the House to support his recommendation. Mr. Fox added, that he must, on the present occasion, give his reasons why he did not think that the House would act prudently, if they should prefer the hon. gentleman over the way to sir Gilbert Elliot. On such occasions as the present, the question necessarily became a question of comparison; as such, in what he should say, he meant always to consider it, and not as a question of positive approbation. Much had been said in favour of the hon. gentleman over the way, and he believed with truth. It was contended that he had considerable talents; he believed that the hon. gentleman had; but all knew that the hon. baronet had considerable abilities likewise. It had been said that the hon. gentleman had been bred to the law. They were not to be told that sir Gilbert Elliot had been bred a lawyer; in fact, they knew that the hon. baronet had every advantage which the hon. gentleman possessed. His mildness of temper they well knew. What, then, was the question, but whether the House should trust to qualities which they knew, or whether they should rely on the opinion of others as to qualities which they did not know whether they were possessed or not? What confidence, or what portion of confidence, was to be placed in the opinion of the hon. gentleman's friends, were questions which he should beg leave to wave. Where there was an equally good opinion given of two gentlemen, the House might feel some difficulty; but, in the present instance, they could feel none. The gentlemen over the way desired the House to rely on what they said in favour of the hon. gentleman; they, on the contrary, who spoke in favour of sir Gilbert Elliot, desired the House not to trust to what they said, but to act upon what the House itself knew. The question therefore was, whether they should take good qualities by their knowledge of them, or from conjecture? Perhaps the nomination of that day might be made merely as a proof of power in some persons, and a wish to show the confidence of the House in the gentlemen on the other side. If so, it was a call upon the confidence of the House, which was by no means justifiable; and when confidence degenerated into such an arbitrary use of it, it became an abuse. Mr. Fox declared that he should consider himself as exceedingly unfortunate, were he to be considered as having said any thing which might be thought disrespect- or uncivil to the hon. gentleman. He had heard much in his praise, and he believed it to be true; he only observed, that sir Gilbert Elliot was a gentleman, whose talents and qualifications were known to the House, and in that case they could speak from a well-grounded confidence; in the other, only from the most favourable suppositions.

Mr. *Pitt* said, that the grounds on which he should give his vote were totally different from the grounds stated by the right hon. gentleman, who had first assumed that they were to withhold their confidence from all the qualities that they did know on the one hand, but on the other, to give it with a blind confidence to qualities that they did not know. He meant to speak with respect of the hon. baronet, but in the several topics of encomium bestowed upon him, all of which he believed were deservedly bestowed, there were circumstances which he did not know from the public acquaintance with the hon. baronet, that he had experienced. He knew the talents and the character of his hon. friend, both from a personal acquaintance and a public acquaintance. He would not speak of his hon. friend, however, from the personal acquaintance he had experienced for a long time, though perhaps no gentleman had a more extensive personal acquaintance, nor had enjoyed a fuller opportunity of manifesting his abilities to a larger number of the members of that House. He only desired the House to recollect the public testimony they had borne to his hon. friend's parliamentary conduct. Not to the partiality or prejudice of friends, but to the memory and judgment of the House did he appeal; to their recollection of the manner in which they had recently heard his hon. friend stand up an advocate for the constitutional rights of parliament. With regard to the duty of the chair, it

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was undoubtedly an important duty, and a situation of great splendour and dignity; but he did not collect a single word that had dropped from his noble friend in his speech introducing the motion then before the House, that had tended to represent any state as a state of superior dignity to the office of speaker of the House of Commons.

Mr. *Burke* said, he did not mean, by way of retaliation, to depreciate in the smallest degree the talents or the character of the hon. gentleman over the way; nothing but having caught something of the fire and spirit of the chancellor of the exchequer could have induced him to rise. He did not envy that right hon. gentleman the pleasing task of endeavouring to abate somewhat of the merits of a person, who had, he believed, never been the man to put his own merits forward, but had ever shown that he possessed in an eminent degree the constant companion of merit, he meant modesty. Whatever faults he might have, Mr. Burke said, he never had attempted to depreciate rising talents. On the contrary, if he had any merit, it was in hailing those superior talents whenever he had discovered them; and discover themselves, he verily believed they would, as often as young members rose to speak in that House. The blossoming abilities of young members always afforded him the highest satisfaction, because it struck him as a renovation of the stock of public talent, and a pleasing earnest of the preservation of the constitution. But experience could not be drawn from blossoming talents; it could only be looked for from matured manhood; the degree of skill necessary for the chair of that House was to be expected from acquired experience rather than from brilliant talents. The House certainly might, by an arbitrary authority, place any gentleman in the chair, but the opinion of mankind must give the appointment authority; for it was not the stamp that gave the guinea currency, but the opinion of the authority of that stamp; otherwise, if a guinea were stamped by all the kings of Europe, the coin would not be current. Every country wishing to preserve its liberty, must preserve its maxims. There were maxims in all countries which were supplemental to the laws, and if any principle were necessary in a free country, it was that of adhering to its ancient and established maxims. Therefore it was, that wise republics had bound themselves down by laws, that certain offices should only be filled by certain men of a certain age, and those laws were never broken in upon, except when the country was on the verge of ruin. Mr. Burke alluded to the conduct of James I, who took the duke of Buckingham, who had talents and some learning, and loaded him with every honour of the state. Such conduct always led to disorder and mischief. It would, he said, be an unfortunate thing, if the maxims of this country should be changed, and such an appointment as to the chair of that House be rashly given, merely at the will of the minister, without regard to qualification. He compared the present mode of appointment to, and abdication of the chair, to a successful person riding post through a town, and saying as he went along, "Gentlemen, I am in haste, I thank you for your support, but I am going about material business. You have a succession-house, a hot-bed for statesmen, put another into the chair, and his sitting there a little while, will qualify him for another office; here is another I recommend; though he has not been many years in the House, he is known to a few members, who will answer for him." He did not doubt, Mr. Burke said, that the hon. gentleman was known to many members; but the hon. baronet was known to the House, and had been known to them for years. They had seen him make one of the greatest efforts of the human mind. His conduct had been such, that malice could not touch him in any of its parts. His character was a long unbroken line, like that which served as a boundary for various rich and fertile provinces in a geographical chart. The hon. baronet was come to that time of life, when the activity and spirit of youth became mellowed, not impaired by the experience of age. He possessed that sweetness of temper which did not subdue, but bent the mind to authority, because all men wished to act more from love than fear.

Mr. *Martin* said, the only honour he expected to arrive at in that House was, the honour of giving his vote, and however he might be attached to any party, nothing of that kind should influence him on the present occasion. All he had heard that day had been equal praise to both gentlemen; he should therefore give his vote to him who had the greatest experience.

Mr. *R. P. Carew* said, he had known

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Mr. Addington from his earliest age, and therefore could assert, that he was every way qualified to act as the representative of that House, and the asserter of its rights, not only within those walls, but to maintain them with dignity and honour before the throne of Majesty. Those who knew the hon. gentleman best would most commend him. Rich in classic lore, and regularly bred to the law, he brought into that House a warm attachment to the constitution, and a conviction, that on the support of the rights and privileges of parliament depended the existence of that constitution. In respect to his youth, when he compared it with the youth of a person, whose name he never heard in that House but with a filial respect, he found the comparison in favour of the hon. gentleman; the person to whom he alluded was Mr. Onslow, who had been called to the chair at a much earlier period of his life. He concluded with declaring, that he would restrain the ardour of his commendation in compassion to the delicacy and feelings of the hon. gentleman beneath him.

The House divided on the question, "That Henry Addington, esq. do take the chair of this House." The Tellers were appointed by the clerk, viz.

For the Yeas, Mr. R. Smith ... 215
For the Noes, Mr. Grey 142

So it was resolved in the affirmative. Whereupon Mr. Addington was conducted to the chair by the marquis of Graham and Mr. Grosvenor; where, standing upon the upper step of the chair, he returned his most humble and grateful acknowledgments to the House for the high honour they had been pleased to confer upon him; but as the considerations which arose from a sense of his own imperfections, and which he had before submitted to the House, had not so far weighed with the House as to prevent them from making him the object of their choice, he hoped to receive their permission to state them in another place. But the members cried No, no. And then he sat down in the chair; and the mace was laid, by the serjeant, upon the table.

Debate in the Commons on the Budget.] June 10. The order of the day, for the House to resolve itself into a committee of ways and means, having been read, and the various public papers and accounts being referred to the said committee,

Mr. Chancellor *Pitt* rose. He said, that notwithstanding it might become necessary for him to bring forward, in the moments of his having the honour to submit an account of the national expenditure, and of the national income to the investigation of the committee, a large demand for the ensuing year, above the ordinary amount of what might have been expected as a peace establishment, and to have recourse to extraordinary means for providing for that demand, yet he had no doubt but that a fair review of the revenue, and of the circumstances which had occasioned this extraordinary demand, would confirm all that he had ever asserted of the improving state of the country, and, instead of weakening, would corroborate the expectations which had been held out to the House four years ago, by the report of the committee appointed to examine the public accounts. Mr. Pitt then stated the supplies voted for the service of the present year. For the ordinary and extraordinary of the navy, 2,328,570*l.*; for the army, 1,517,000*l.*; besides a sum for extraordinaries of 998,000*l.*; which being, in fact, already paid out of sums that had casually fallen into the exchequer, did not remain to be provided for. For the ordnance, 713,000*l.*; for money paid to the loyalists, 355,000*l.*; for the maintenance of convicts, 56,000*l.*; to make good the deficiency of the land and malt tax, 950,000*l.* These, with the sums for plantation services, monies advanced in consequence of addresses, and to the different boards, made the whole supply for the year 1789 amount to 5,539,000*l.* To this was to be added, for the present, 191,000*l.*, to make good the like sum advanced to Holland from the civil list. This sum, however, would not eventually add to the expenses of the country, because it was to be repaid, with interest, by instalments, which instalments would be regularly applied to the discharge of the money borrowed in consequence of this loan; and he did not imagine that the committee would think it improper to make it good to the civil list in the mean time. The total supply for the present year would then be 5,790,000*l.* Concerning the exchequer bills, as they were renewed from year to year, he did not think it necessary to make any remark.

As ways and means to provide for this supply, he took the land and malt tax at 2,750,000*l.*; to be raised by a loan, 1,002,500*l.*; by a lottery, 271,000*l.*; to make good the sum advanced for secret

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services, to be raised by short annuities, 187,000*l.*; from the consolidated fund, 1,530,000*l.* The average of all the taxes, for the two last years, was 12,978,000*l.* It was true, that the produce for the last year had fallen 300,000*l.* short of that of the preceding year; but from many circumstances he did not think the produce for either of those years the proper estimate to go by. The regulations of taxes that had taken place in 1787, in particular that which promised to be the most productive, the regulation of the duties on wine, had not had time to produce their full effect; which was one among many reasons why the produce of the taxes in the last year had been less than it ought to have been. The commercial treaty with France, concluded in 1786, had naturally occasioned a sudden increase both in the exports and imports, which had swelled the produce for 1787 beyond its proper level. It was therefore fair to take the average of those two years as the proper estimate; and this was further confirmed by the increasing produce of the taxes for the present year. The annual charge on this produce was 11,278,000*l.*, leaving a surplus of 1,700,000*l.* There were, however, several circumstances from which a still greater surplus of taxes might be expected. The amount of the assessed taxes paid into the exchequer last year, had been less than it ought to have been, merely from the delay in the payment of several, in consequence of disputes between the collectors and those who were to pay them. There was, by this means, a considerable balance outstanding, which would be paid in, and might amount to 120,000*l.* There was also a balance in the hands of the collectors, which would be recovered, and might give 100,000*l.* more. There was due from the East India company 500,000*l.*, a debt which the company, indeed, disputed, and consequently only 300,000*l.* of it had been paid last year. Recent accounts from India confirmed that the balance was due to government, and therefore 200,000*l.* would be paid this year. There was still an additional source of revenue by a regulation in the mode of collecting the duties on tobacco, almost the only article which continued to be an object of smuggling to any great extent, and the duties on which he meant to put under the board of excise, in the present session, which would produce an increase of about 100,000*l.* Taking all these articles together, the growing produce of the sinking fund might be estimated at 2,050,000*l.*, from which deducting 520,000*l.* for the deficiency of taxes in the course of the preceding year, there would remain 1,530,000*l.*, making the whole of the ways and means amount to 5,800,000*l.*, or about 70,000*l.* more than the supply. It remained only to provide for the interest of a million to be borrowed, and the sum lost to the revenue by the repeal of the shop tax. The sum to make good the money advanced for secret service was out of the question, because he had already stated that it would be repaid with interest. What then was the situation of the finances? In 1786, when they were more particularly under consideration, the subject of dispute had been, first, whether we could pay the extraordinary expenses which must accrue before we arrived at a regular peace establishment, without a loan? and next, whether the renue would answer to the sum stated by the committee of accounts as necessary to pay the interest of the public debt, and to have a surplus of one million annually towards its liquidation? From 1786 we had raised no money by loan; it was now proposed to raise one million, and we had since that time increased the navy debt 500,000*l.* Now, what had been the extraordinary expenses since that time? We had paid 3,500,000*l.* above the average peace establishment: we had paid, besides, 852,000*l.* to the loyalists; 216,000*l.* for the prince of Wales's debts; 210,000*l.* for the debts of the civil list; and 253,000*l.* for the expense of the armament last year; which sums, taken together, were equal to the additional navy debt incurred, and the million now to be borrowed. So that although in three years 3,500,000*l.* had been paid above the calculation of the committee, and 3,750,000*l.* for the reduction of the national debt, with which above four millions of debt had been actually paid, and 120,000*l.* brought annually to the sinking fund, had it not been for those unforeseen expences we should not only have been able to provide for the extraordinary million wanted this year, without any additional burthen on the people, but we should not even have wanted a substitute for the shop tax. Under these circumstances, he might congratulate the country, that the hopes which he had entertained were well founded, and that the calculations of the committee had been verified to a degree of accuracy seldom to be expected in such calculations.

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His next statement would be that of the permanent income. It had been declared by the same committee, that 15,500,000*l.* revenue was necessary to defray the annual expenses, and leave one million to be applied to the reduction of the debt. How did it stand at present? On an average of the last two years it appeared to be 15,578,000*l.* nearly exceeding by 100,000*l.* what the committee had thought to be necessary. There was, therefore, no disappointment with regard to the permanent income. It was not then necessary to say much to convince the committee that the finances were in as good a situation as there ever had been any reason held out to expect: he had neither been accessary to deceiving the public, nor been deceived himself; and the new burthens to be imposed ought to be borne with as much cheerfulness as any which were imposed on fair grounds, and for necessary purposes. In providing for the million to be raised by loan, he had felt it his duty to establish a principle which might confirm the credit and the confidence arising from the unalienable application of a sinking fund. For this purpose it was indispensable, either to increase the sinking fund in proportion to the additional debt, or to add to the present taxes without making any addition to the funded debt. The latter method he preferred as being more secure against any alienation of the sinking fund, and as enabling him to take advantage of the spirit of adventure to which the present abundance of money in the market gave rise. He meant to raise a million by annuities with benefit of survivorship; by which means a tax would be raised, which in time must extinguish itself, and no addition be made to the public debt. Calculating on the most approved tables of lives, and reckoning the interest of money from the 3 per cents. at about 4 per cent. he had found that the interest on the whole would be about 4*l.* 10*s.* per cent. The persons who agreed for the whole, had allowed a small premium of 2,500*l.* It was part of the terms that no more than 1,000*l.* a year should ever be received on the sum of 100*l.*, a matter not of much consequence perhaps, but as it might guard against any uncommon length of survivorship, so far it was in favour of the public. The subscribers were divided into six classes, and it was computed that an equal sum would be subscribed by each; but as more of one class might offer than of another, the contractors were not to be confined on this head. The interest, therefore, could not be precisely ascertained till the subscription was full, but might be taken at 44,750*l.* To replace the sum lent from the civil list, he meant to raise 290,000*l.* by short annuities, which the instalments received in payment would answer; and in doing this he had made an economical bargain for the public.—During the course of the preceding year the shop tax had produced about 56,000*l.*, which, with the tontine annuities, would make nearly 100,000*l.*, to be raised by new taxes. To do this he proposed an augmentation of certain stamp duties, viz. an additional halfpenny on every newspaper, which would produce 28,000*l.*; sixpence additional on each advertisement, 9,000*l.*; sixpence additional on cards and dice, 9,000*l.*; an additional duty on probates of wills, in proportion to the sum bequeathed, 18,261*l.*; on legacies to collateral relations, 5,000*l.*; making in all, by stamp duties, 69,261*l.* On horses and carriages—on one carriage an additional of one-eighth of the present duty; on two an addition of one pound for the first and of two for the second; on three or more, one pound for the first, and three for all the rest: on two horses no addition for the first, but five shillings for the second; on three, four, or five horses, seven and sixpence for all above one; or more than five, ten shillings; making in all, with the additional stamp duties, about 111,000*l.* Having observed, that he had been guided by every principle of the strictest economy in the case of the loan, and that the nature of the taxes was not likely to press heavily upon the poor, or even upon individuals in narrow circumstances, Mr. Pitt moved his first resolution.

Mr. Sheridan said, it was at all times an unwelcome task on that day, which was generally a day of triumph to the minister, to get up and deny the facts alleged in proof of his assertions. It, besides, answered no good end, as it became in such case merely a debate of assertion on one side and denial on the other, and therefore it was better to avoid it. For that reason, though he differed with the right hon. gentleman as to the flourishing state of the finances of the country, he would not at that time enter into the discussion of the subject. If the right hon. gentleman really meant the state of the finances to be laid before the public, he would accept of a proposition that he would make him before he sat

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down. The right hon. gentleman had artfully diverted the attention of the committee from the necessity of the loan, by holding forth the ingenuity of the manner in which he had contrived to borrow the money. The real question for the committee to ask was, not how the money was borrowed, but how it happened that they had any loan at all? It was a most extraordinary circumstance that a loan should be now raised to supply the current expenses for the year. There was nothing, he well knew, so unpleasant as to differ with any gentleman in his representation of the prosperous state of the finances, but there was nothing so dangerous as keeping the public under a delusion. The two points to be considered were, whether the expenditure should be reduced to the estimate contained in the report of the committee of 1786, or whether it should be extended, year after year, without any regard to what ought to be the expenditure under a peace establishment. In 1786, the committee of finance proposed a variety of reductions, no one of which had taken place; but on the contrary, considerable augmentations had since been made. The chancellor of the exchequer had said, with an air of exultation, that we had paid off three millions towards the reduction of the national debt; but the right hon. gentleman had totally overlooked the means by which they had done it. Let the state of the unfunded debt in 1786 be looked at, and it would be found that the right hon. gentleman had borrowed one million of exchequer bills. He had besides borrowed 500,000*l.* navy, and he said not one word of the accidental resources that had come in aid of the ordinary annual revenue. Having borrowed 2,500,000*l.* besides those aids, the declaration that three millions were paid off was a delusion. The right hon. gentleman had not said one word why they were not likely to see the reductions promised by the committee of 1786. Let gentlemen look at that Report, and compare it with the right hon. gentleman's own statement, and they would find that every syllable of the prediction, which he (Mr. S.) had made in 1786 was verified, and that though the resources of the country were in a flourishing state, and the income he believed increasing, the right hon. gentleman could neither support his former promises, nor his present assertions. Mr. Sheridan urged the necessity of no longer blinking the business, but of looking the real state of the finances stoutly in the face; and therefore he called upon the right hon. gentleman, if he did not mean to deceive the House and the public, to grant the inspection of some necessary papers, and refer them to a committee to examine and report upon. And when he said this, he did not mean a committee like that of 1786, not a committee of persons in office, or who wished to be in office, but such a committee as might, he was sure, be selected in that House, a committee of gentlemen, who neither were, nor wished to be in office. If the right hon. gentleman would not consent to this, Mr. Sheridan said, he would himself move some resolutions upon those papers, that would put the matter in its true point of view, and convince the House how very different the state of our finances was from the right hon. gentleman's representation. Going on as they did, was only putting off the evil day; a day of reckoning must come at last, and the longer it was postponed the more fatal would be the consequences.

Mr. *Pitt* said, that the hon. gentleman proceeded to lengths as groundless as they were unjustifiable, when he accused him of an inclination to delude the House. The necessity of coming to parliament for this loan arose entirely from the unforeseen expenses incurred. The decrease of the revenue last year had been owing to incidental circumstances, and there were grounds to believe that the revenue would now go on to increase in a very great degree. He could have no objection to any motion of the hon. gentleman for papers. It was not to be expected he should enter into a discussion of the new and strange arguments he had offered to the House at this time, but he would willingly meet a full discussion of the subject on any future day. He did not see any necessity for a committee to report to the House what they were themselves capable of judging of, without sending it to a committee.

Mr. *Fox* thought the position of the chancellor of the exchequer, that the capital of the national debt was not increased by a tontine loan, a very extraordinary position indeed. It was true, that the subscribers to the loan could not call upon government for any principal sum of money to be paid to them at any time; but, in respect to this, they were only in circumstances common to all the rest of the public creditors. They would none

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of them ever call upon the public for any part of the capital of their debt. This capital existed no where but in the interest which was annually paid; and this interest was equally a burthen and equally a capital, in whatever way, or upon whatever terms, the money had been borrowed. There were several ways by which the public might become indebted; they might borrow money upon long annuities, or upon short annuities, or upon a perpetual fund. Immense sums of money might be borrowed upon long or short annuities; in which case it would remain for the chancellor of the exchequer, with all his paradoxical excellence, to prove that the capital of the national debt had not been at all increased. Admitting the statements of the right hon. gentleman to be just with respect to the excess of the revenue over and above the sum which was required to defray the national expenditure and to pay off the annual million, and which excess (upon which he had given himself so much credit) he stated to be about 70,000*l*., still all this was extremely inadequate to realize the expectations of its defraying the national expenditure, and paying off the annual million. Experience had fully proved that it was not equal to these purposes for the three years which had passed; and was there any ground to suppose that things were suddenly to turn round, out of compliment to the minister, and that that was now to happen which had not happened before? If there were any circumstances which could justify an expectation so agreeable, he was ready to grant those circumstances all the favour they could possibly deserve; but the reverse of this was the melancholy truth; and there was every reason to infer, that the same circumstances which had hitherto operated to defeat the promises so liberally made, must still continue to defeat the promises made with the accustomed liberality. We were told that the distinguished situation we now held among the nations of Europe, was one cause of the increased expenditure and of the new impositions. If this was the case, he hoped that the cause of the increased expenditure would continue to subsist. For the purpose of protecting our settlements abroad, it was necessary (it had been stated) to furnish them with an additional number of regiments; hence it was that an additional expense was incurred, beyond what we had laid our accounts for; but, said Mr. Fox, it will not be less necessary to protect our settlements abroad next year, than it was to protect them this year, nor will it be less necessary to protect them the year after next year. This, therefore, was a permanent, and not a transient expense, and its effects would be the same; they would have the same operation at any time as they had at the present. The same argument would perfectly apply with respect to the increased expense which we had incurred, by voting an additional number of seamen. For his own part, he had no objection to that increased number, and he thought that ministers were perfectly warranted in doing what they had done; but if they had been thus warranted, he did not see what grounds they could have for supposing that a less number of seamen would serve at a future period; nor was there any thing so peculiar in the present complexion of things, as to make them hope that what was admitted to be perfectly proper now, would become improper upon the next occasion that they should have to provide for the public exigencies. For his part, although it appeared a very plain case to him, that the system of which they had now had the experience for three years, must still continue, and that, consequently, any relief to the public, from a probable reduction in its expenses, was just as far off now as it was three years ago, when it was equally promised us; although this appeared to him a very plain case, yet he thought the doctrine of the chancellor of the exchequer very extraordinary, when he coupled the shining and enviable situation of this country, with the increased expenses of the country. Accustomed as he was to the plain deductions of reason, he could not help thinking, that the use which should be made of the enviable situation of a country, and of the confirmation of its strength by foreign alliances was, to enable it to reduce its expenses, and not occasion an increase of them.

Mr. *Hussey* was surprised to see the manner in which Mr. Pitt had made his average statement. He had stated the probable income of this year at a sum less than that of the last year by 500,000*l*. He wished to know what was the reason of this difference. There was, besides, an acknowledged increase of navy expenditure, amounting to 500,000*l*. These together made the difference of 1,000,000*l*. between the accounts of the present and the last year. There was likewise a dif-

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ference of 1,100,000*l.* between the peace establishment which was stated in the report of 1786, and what would be that of the year 1790. These were modes of increasing the public expenditure which he did not approve. They were delusive, fallacious, and dangerous.

Mr. *Dempster* said, that he must give his feeble voice, even if he should stand alone, in opposition to the present resolutions. He could not agree to any increase of taxes being levied on the country, in the time of peace. It was then that the nation should be eased of its burthens as much as possible. He deprecated the general profusion of ministers. He meant not this as any personal reflection on the right hon. gentleman. On the contrary, he believed him as economical as any minister who had preceded, or might succeed him. But what he censured was the general extravagance of ministers. They disposed of the property of the public, without any care of what the country must suffer under such a perpetual increase of burthen. If they were not to feel an alleviation of this weight in the time of national tranquillity, when were they to expect it? Increasing thus, the taxes was not only improvident, but impolitic. It was by economy in peace that we were to treasure up resources for war. To preserve our dignity and consequence with other nations, it was not necessary to increase the burthens of the community. The only wise and effectual means were to form alliances with princes, reduce our armies and navies, and establish a system of economy throughout all the departments of the government. But, indeed, the mere economy or parsimony of ministers could not effect this grand object. Unless the people were enabled to be economical themselves, it was impossible that they should possess property ready to supply the sudden and pressing emergencies of the state. He hoped to see a time when the House would not accede to every pretence of a minister for increasing the taxes, at a time when they ought to be diminishing. But if taxes were thus continued to be increased, the people's necessity would enforce economy in the government. When they were exhausted of the means to support it, then the minister would be obliged to retrench, and not wantonly increase the national disbursements. The increase of our armies and navies could not be vindicated on any system of political necessity or propriety, but that of emergency. But did that emergency now exist? No. There appeared not the least occasion for our seamen having been, in particular, increased. The country was never in a more flourishing state than it was in 1755, when our expenditure bore no proportion to what it was in 1789. During the peace, in the administration of sir Robert Walpole, not more than 8,000 or 10,000 seamen were thought necessary. The country had then as much power to contend against as they have at present; he could not, therefore, see the expediency of having so great a number. They were undoubtedly a useful and necessary part of our defence; but when they were increased in such a manner as to exhaust our resources, they became the means of our debility.

Mr. *Rolle* thought, that at a time when it was necessary to increase the taxes, something might have been acquired from the sale of the crown lands. As there had appeared a disposition in the government to take an estimate of them, he wished to know whether there was any intention of applying their value to the purposes of the state.

Mr. *Pitt* answered, that there certainly was an intention of disposing of the crown lands. But as it would be impossible to make their sale in time to apply the purchase money to the present occasion, the taxes now proposed had been thought expedient.

The several resolutions were agreed to without a division.

Complaint of a Libel on the House of Commons.] June 16. Mr. *Marsham* solicited the attention of the House, while he stated, that a paper had been just put into his hands, containing a paragraph, which, if the word "spirit" that occurred in it, was meant in the sense in which he understood it, was a gross and scandalous libel on that House. He flattered himself, that during the time that he had sat in that House, no man could accuse him of having been forward to find fault with printers, or to act as if he were in any way an enemy to the liberty of the press. No man wished it more sincerely well than he did, because no man was more thoroughly satisfied, that a free press was essential to the very existence of the constitution; but, there was a clear distinction between liberty and licentiousness, and the former could not, perhaps, be more effectually supported, than by check-

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ing and punishing every instance of the latter. He hoped, therefore, that as long as he had the honour to hold a seat in that House, he should have spirit enough to stand up an advocate for its dignity, and to move a prosecution against any person who should presume to libel its proceedings. The paragraph in question was, in his opinion, a direct attack on the dignity of that House, and a daring attempt to degrade and disgrace them in the eyes of the people of England. He trusted, therefore, that the House would order the attorney-general to prosecute the printer of the paper which contained it, and which was "The World" of that morning. He then read the paragraph to the House, in the following words: "Mr. Hastings's trial is to be put off to another session, unless the Lords have spirit enough to put an end to so shameful a business."

The paper was handed to the table, and the paragraph complained of read in form. While the motion was drawing, Mr. Marsham rose again, and said, that as the step he had taken was taken on the spur of indignation, and immediately after the paper had been put into his hands, it was no wonder that what was necessary to be done by him was not properly digested. Upon second thoughts, he believed, that it would be more regular, previous to voting the Address to his majesty, for the House to come to a resolution, "That the said paragraph contains matter of a scandalous and libellous nature, reflecting on the proceedings of this House." The motion being put, was agreed to *nem. con.* Mr. Marsham then said, that the libel was so scandalous and insulting, that he was persuaded every gentleman must feel with him that degree of indignation which such an attack on the honour and dignity of the House must necessarily excite. It was not, in fact, a question of that or the other side of the House, but a question which concerned them all; and he flattered himself that he had the House with him, when he moved, "That an humble Address be presented to his majesty, humbly desiring his majesty, that he will be graciously pleased to order the attorney-general to prosecute the printer and publisher of the said newspaper."

Mr. *Burke* said, that every member must perceive the propriety of the motion of his hon. friend, and cordially concur in it. He, for one, felt hurt at being, from day to day, shown these scandalous paragraphs and gross misrepresentations of the proceedings in that House, both in Westminster-hall and within those walls. At the same time, no man living could wish more than he did that the public should have a faithful account of all public proceedings. Every thing of a judicial nature especially, ought to be transacted in the public eye, and where it could not be done in the public eye, it ought to meet the public ear, which could only be effected by suffering accounts of what had passed to go forth into the world; but, then, those accounts ought to be candid, dispassionate, and, above all, true. It was known by every man, that the publication of any account whatever of matters at issue, *pendente lite*, was an irregular and improper proceeding; but there had been, in the paper complained of, accounts published, which were not only irregular, but in the highest degree false and scandalous. He always felt some difficulty in deciding what ought to be done on such occasions, because every man must see that there were palpable distinctions between the two cases which he had mentioned, and a question arose, whether they ought to punish those who, without any misrepresentation, were only guilty of irregularity, for that irregularity, as well as those who added the offence of misrepresentation and falsehood to that of irregularity. There could be no way of proceeding, but to put a stop to such publications altogether, and to publish an account of what passed from day to day, by authority of the court, from the short-hand writer's notes, which would, in his mind, be neither practicable nor proper. Certainly, if the punctilios respecting matters at issue were carried to their utmost extent, much useful information would be suppressed. At the same time, he must confess, that it was, in his opinion, better, upon the whole, that the public should receive no information at all, than information which was false. He hoped, therefore, the hon. gentleman would take up the whole body of misrepresentation to which he had alluded, and bring all the libels touching the trial before a court of justice. Mr. Burke added, that if he were a person no ways concerned in the scene of action, but living at a distance in the country, and were to form his notions of what passed in that House and in Westminster-hall from the accounts given in the paper complained of, he should have conceived that the reverse of what happened was the true state

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of the fact, and that instead of the House appointing members of any knowledge, experience, or ability, to act as managers of the prosecution, it might be supposed that they had fixed upon a set of ideots, the greatest which could be found in all the world. He had been backward in taking any notice of these irregularities, because, as far as regarded himself, he had been long used to them, and despised them, being satisfied that such personal attacks as, from time to time, had been made on the managers, injured no person's character, when made singly, but when joined to a gross falsification of facts, they became more serious, and necessarily called for reprehension.

Major *Scott* did not rise to oppose the motion, but to observe upon the extension proposed by the right hon. gentleman. It was undoubtedly to be lamented, that the trial had spun out to a length unknown in any criminal prosecution in this or any other country, and that there had been as many accounts of it as there were newspapers. But, he must affirm, that the paper which the right hon. gentleman had taxed with unfairness, contained a very impartial account, intermixed with much wit and humour, and with a poetical description of each day's proceedings, which was read by men of all parties and descriptions, and universally admired.

The motion was put and agreed to.

June 18. Mr. *Greg* rose and observed, that perceiving the attorney-general in his place, he should beg leave to ask the learned gentleman why certain prosecutions for libels, ordered by that House, during the preceding session, had not been brought to an issue? The learned gentleman had, he imagined, good reasons to give why the prosecutions in question had lingered so long, and when he heard what those reasons were, he had no doubt but he should be fully satisfied; but he thought it right for the House to watch over the execution of its directions, and most especially where prosecutions for libels were ordered, to take care that such prosecutions were not nugatory; and he the rather embraced that opportunity of putting the question, because he was anxious that the prosecution moved for against the printer and publisher of "The World" the other day, for one of the many gross libels on the House which had appeared in that paper, might be carried into effect.

The *Attorney General*, before he proceeded to answer the hon. gentleman's question, could not avoid expressing his wish, that prior to prosecutions for libels being moved for in that House, gentlemen would consult those who, from their profession and experience, were best able to advise them, how far the wished-for prosecution might be proper and practicable: for want of this necessary caution, those whose duty it was to carry on such prosecutions were subjected to very great difficulties in the conduct of them, and exposed to the danger of being defeated; and he trusted that he need not press upon the House, what must be obvious to every gentleman, namely, that a repetition of verdicts for defendants upon prosecutions ordered by that House, would tend more to weaken its authority and disgrace it, than almost any libel whatsoever. With regard to the hon. gentleman's question, the hon. gentleman would recollect, that the prosecution had not originated while he held his present office; he was not therefore answerable for its conduct; not that he meant to say, by any means, that it had been neglected. One of the causes that was first moved for, had been put in regular process. The earliest step which could be taken was in Michaelmas term last; neither did it appear possible to bring on the trial previously to the sittings after term, which would have happened early in December last. At that time a difficulty had arisen, such as never occurred before in any prosecution, and such as made him, with the concurrence of five or six of the most respectable of the crown lawyers, think it right to pause a little, and see how the difficulty could be surmounted. At the sittings after the next term, he had struck a special jury, and the trial was to have come on in the second week of sittings; and sittings, gentlemen would recollect, lasted but fourteen days, Sundays included. On the Sunday, a gentleman of considerable weight and character in his profession, who was the principal counsel for the defendant, called upon him, and told him, he was so much indisposed, that he could not possibly attend the trial on Tuesday, for which reason he wished that he would consent to postpone it to the Thursday; his answer had been, "that he would readily accommodate him in his proposition, or in any other which did not render it impossible to try the cause that sittings." The learned gentleman to whom he had

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alluded, applied to him again to put it off on the Thursday, when he had declared himself sorry to be obliged to refuse his concurrence, and to tell his learned brother, that though a sense of his duty would not suffer him to consent, the learned counsel might apply to the court, and if, after hearing his reasons for wishing to defer the trial, the court should grant what he applied for, he (Mr. Attorney) must submit. The court did grant the application, and this concession carried the cause over to the sittings after the next term, that preceding the present. When he was preparing for trial, then the solicitors to the treasury sent him word, that the messenger of the press was in the Middlesex hospital, and that his life was despaired of. The messenger of the press was, he declared, a witness without whom he could not stir a single step in the cause, as he was to prove the publication; he was obliged, therefore, to desist from trying the cause last sittings. He had lately sent to inquire how the poor man was, and he understood that he was getting better, and that hopes were entertained of his speedy recovery; and, therefore he meant to apply to the court, to appoint one of the latest days of this ensuing sittings for trying the cause, by which time he hoped the messenger would be capable of coming into court. The attorney general begged leave to assure the House, that they might in that and in every other instance, depend upon every exertion being made, on his part, in the discharge of his duty, in the conduct of any prosecutions carried on at the instance of the House; but he could not help again signifying his wish, that gentlemen would not hastily, and on the spur of indignation, rise and move a prosecution of that House, but would suppress their resentment, and consider well the whole of the probable consequences that might attend a prosecution before they moved it.

Mr. *Grey* was glad that so full and satisfactory an explanation had been given by the learned gentleman, that the public might see that the prosecutions ordered last session had not been forgotten, but had been delayed by unavoidable causes. It was highly necessary, when that House addressed the Crown to prosecute, that the prosecution should be carried on with effect, and the publishers of the libels pursued to punishment.

Mr. *Burke* said, that he agreed most perfectly with the learned gentleman, that the utmost caution was necessary in moving for prosecutions for libels, under the authority of that House, and that repeated verdicts for defendants in the trial of such prosecutions, would tend more effectually to weaken their authority and degrade their dignity, than the publication of any libel however slanderous. But surely, it had escaped the learned gentleman, that the right hon. gentleman who lately sat in the chair (Mr. Grenville) had been the member who moved for the prosecution in question, and therefore, as he was in habits of intimacy with the crown lawyers, it must be supposed, that the right hon. gentleman had acted with the greatest deliberation, and the more especially as the motion had subsequently received the sanction of his majesty. Motions for prosecutions for libels in that House, did not greatly impress his memory; but, if he recollected rightly, the prosecution alluded to was for a libel against sir Elijah Impey, who had complained of the newspapers, and called upon the House to protect him from their slander. Undoubtedly, every man whose conduct was under inquiry before that House, was entitled to its protection. It was his due, and he had a clear right to claim it; but he neither had, nor ever would be the man to advise a prosecution without doors. The House was bound to defend its solemn acts, and to guard them from ridicule and slander; but, had he been consulted in regard to the prosecution in the case of sir Elijah Impey, he would not have recommended a resort to any other tribunal than that House, which he should at all times contend, was perfectly competent to support its privileges by an exertion of its own authority. Whenever that arm was turned aside, the House would subject itself to repeated insults of every description, and its privileges might ultimately be carried, by writ of error, before the House of Lords, to be decided upon—a degradation which the House could not guard against with too jealous a caution. Certain he was, that in all motions for prosecutions for a libel, the House, whatever it did, ought to do it with due deliberation; and, in all cases, unless of a very aggravated nature, the safest mode of proceeding was to resort to their ancient and wholesome practice of attachment, where their own privileges were infringed or insulted. With regard to the late motion for a prosecution for a libel respecting the trial of

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Warren Hastings, that motion had, as they all knew, been made by one of the worthiest, soberest, and most respectable men in that House, who, as he himself declared, had been touched with indignation at the first sight of the most insolent, audacious, and unwarrantable attack, that ever was made on the solemn acts of a house of parliament. The House were in possession of his opinion upon the subject, and had heard him declare, that, provoking and audacious as that libel was, it was nothing in comparison to the many and repeated false accounts which were daily given in the same paper concerning what passed in Westminster-hall. Those continued misrepresentations called for serious notice, because, however respectable any public body might be, if it suffered itself to be daily libelled, abused, and ridiculed, it must, necessarily and unavoidably, sink in the public opinion; and therefore, such a series of insults, grounded on such a series of falsehoods, were more worthy of prosecution, than a libel on sir Elijah Impey, or even a general libel on the dignity of the House. He was ready, Mr. Burke said, to allow largely for the inaccuracy of newspaper reports of public and parliamentary proceedings; and when the scanty time for committing them to the press, and the difficulty of satisfying the craving appetite and eager curiosity of the public for intelligence of an interesting and important nature sufficiently early, were considered, every fair man would be willing to make a reasonable, and a full and liberal allowance. Free discussion, candid disquisition, and even an honest opinion on what passed, or what was passing, might be warrantable; but, in a judicial proceeding, *pendente lite*, even an opinion ought not to be hazarded; because it might injure the cause at issue, and could not be a well-grounded opinion before all the evidence and arguments on both sides of the question had been heard and concluded. He understood that papers of wit and humour were regularly published on the subject of the trial; to them, if any such there were (for he had not seen them) he professed no sort of hostility. But a settled plan of daily misrepresentation, replete with the most libellous and licentious abuse of those who were authorized by that House to conduct the prosecution, might become a serious consideration before the House. For his part, revering, as he did, all the essential aids of the constitution, he thought that if the licence of the press went on that way, the liberty of the press was going; being convinced that the liberty could not have a deadlier foe than the licence, and especially if that licence were exercised through corruption, and at the suggestion of the money of a party interested. At the same time that he gave notice, therefore, that this slanderous series of misrepresentations might hereafter be submitted formally to the consideration of that House, he desired, whatever part he might take in it, as one among others, not to be considered as actuated by any personal motives, or by any feelings of his own in consequence of newspaper attacks. He should ground his conduct in this, as in every other public proceeding, upon public principles, and public principles only.

The *Attorney General* said, he had it not in the smallest degree in his contemplation to have alluded to the prosecutions ordered by the House last year; least of all to that moved for by the right hon. gentleman who lately sat in the chair. When that was moved for, he had been present in the House, and was appealed to upon the subject, but had declined giving any opinion, as he always should do on such occasions, because it would subject him to an awkward inconvenience. If he were to say, upon a momentary view of a publication suddenly brought under consideration in that House, that he did not think any particular matter which might be in discussion a libel, and the House should nevertheless direct him to commence a prosecution when in court, in discharge of his duty, he should be endeavouring to convince the jury that they ought to give a verdict for the Crown, a counsel, on the side of the defendant might say, "Gentlemen, you are not to mind Mr. Attorney, however eloquent he may appear; I heard him lately say in the House of Commons, that he thought the matter charged in the information was not a libel." With regard to what he had advanced respecting the propriety of gentlemen not hastily moving for prosecutions for libels under the authority of that House, he wished to caution gentlemen against giving way, in the first instance, to their feelings, when, as all men on reading slander must feel, they entertained a desire to commence a prosecution against the publisher of a libel. On such occasions, for a variety of reasons, it would be more prudent, more solemn, and more

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dignified, if they were to give notice that, on a future day, they intended to move in such or such a particular manner.

Mr. *Burke* concurred with the learned gentleman, since, beyond all doubt, whether the House or gentlemen themselves were individually concerned in libels, they ought, at any rate, neither rashly nor hastily to commit the House upon such subjects.

Debates on the Bill for transferring the Tobacco Duties from the Customs to the Excise.] June 16. The House having resolved itself into a committee to consider of the duties payable on tobacco,

Mr. *Pitt* rose. He trusted, that notwithstanding the extreme importance of the subject to which he wished to call the attention of the committee, he need not take up much of their time at present, since there would be various subsequent stages of the business that would afford sufficient opportunity for discussion and detail, and a few words would serve to satisfy gentlemen, that the resolution he meant to conclude with was a proper one. The article of tobacco was, he said, a considerable object of the revenue; and under the present regulations and duties, a great article of smuggling; indeed, it was the only article that could be considered as the smuggler's staple, since the regulations that had of late years taken place in regard to teas, wines, and spirits. Mr. Pitt summarily stated the great inducements that were held out to the smuggler to deal in this article, such as the very low price of its prime cost compared with the amount of the duty, &c. which afforded an ample premium to illicit traders, and enticed them to carry on their traffic to a very great extent, to the material detriment of the revenue, and the equal injury of the fair trader. At least one half of the tobacco consumed in the kingdom was smuggled. It had been computed when the alteration was proposed on teas, that the quantity of tea annually imported into Great Britain, amounted to twelve millions of pounds; but it had since turned out that much more was the real amount of the quantity imported. It had generally been thought that the quantity of tobacco bore a tolerably near proportion to the quantity of tea, and upon inquiry it turned out to be the fact. The merchants of Glasgow, who were intelligent men, and conversant on the subject, were of opinion, that not less than twelve millions of pounds of tobacco were annually imported into the kingdom, and upon application to the several traders in that article in London, they had thought that the importation amounted at least to fourteen millions. The actual legal importation had been on the average estimated at seven millions, and the last year, perhaps, it would be justifiable to estimate it at more; so that there was from five to seven millions of tobacco extraordinary used every year, without the payment of any duty, and to the injury of the revenue, to the amount of nearly 300,000*l.* a year, as the duty on each million of pounds was 60,000*l.* Such being the state of the case, the House would doubtless agree, that it was not more his immediate duty to endeavour to improve the public revenue, by the suppression of frauds, than it was their indispensable duty to assist, as far as human prudence could admit, by providing such regulations as were most likely to repair the loss the revenue had sustained. With this view, it appeared to him, that, under the present circumstances, the most probable means of effecting the end proposed, would be to change the greater part of the duty upon tobacco from customs to excise, and to subject the manufacturers of tobacco to the survey of excise. Mr. Pitt spoke of the superior advantages resulting from this latter plan, and said, gentlemen must be aware how much stronger the check of taking stock was, than that of merely collecting the duty on importation in the first instance. The peculiar benefit of this plan had been exemplified in a recent instance, in the article of wine, in which, although we had not had a fair trial, because the lowering of the duties had taken place so shortly after the regulation, yet a very great and obvious increase of the legal sale of wine had been obtained. He stated particularly what had been the quantity of wine paid duty for, antecedent to the excise regulation (13,000 tons); what the increase had been after the regulation had taken effect (18,000 tons), and what the additional increase since the duties on wines were lowered (22,000 tons). He touched upon the objections that might possibly be made to the regulations he should propose, by the manufacturers, and said, though he hoped that the majority of those who called themselves fair traders, and indeed by far the greatest part of them, were what they called themselves,

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yet there were probably some manufacturers whose characters and conduct were not quite clear from suspicion, on the score of encouraging smuggling, and whose prejudices, founded in self interest, might induce them to object to the regulations, and to desire to be heard against them. If any such application should be made, the House undoubtedly would listen to every thing that could be urged with patience and with candour; but they would recollect, that arguments coming from persons circumstanced as he had described, ought to be received with some allowance, and that the allegations of those most likely to be masters of the whole subject, were not always to be relied on implicitly, since, when the regulations on wine were proposed, they had men at their bar, who had said confidently and roundly, that, under such restrictions, they could not carry on their trade. The House at that time thought their reasoning insufficient, and tried the experiment, and the result had been, that the trade had increased to an astonishing degree. Mr. Pitt stated, that two ways of endeavouring to drive the smuggler out of the market were obvious; the first of these was, by lowering the duty so as to deprive the smuggler of all chance of continuing the traffic with any degree of success. This he thought rather too hazardous an experiment to be ventured upon, because the revenue already derived from tobacco was too considerable in amount to be lightly given up, and therefore he had chosen the less dangerous mode of changing the duty from the customs to the excise, and of applying the additional check of the excise survey. Mr. Pitt, after observing that there would be ample opportunities for discussing the subject more at large in the subsequent stages of the business, and mentioning, that the new duty would be nine pence in the pound excise, and sixpence customs, he moved, as the first of several resolutions, "That the existing duties on tobacco be repealed."

The several resolutions being agreed to, were reported to the House, and a bill was ordered to be brought in thereupon.

June 24. The Tobacco Bill was read a second time. On the motion that it be committed,

Mr. Alderman *Sawbridge* said, that he was resolved to oppose the bill in the first instance, as an extension of the excise laws, which held out that principle so odious to Englishmen, and so inimical to freedom, a power of conviction without trial by jury. He reminded the House, that at the time that they were enacting a law for the religious commemoration of the revolution, they were striking at the very root of popular freedom, and destroying by a deadly blow, those very blessings which had been derived from that revolution. The excise laws had always been particularly offensive in this country, because they took away that best right of Englishmen, a trial by jury; he should therefore think it his duty on this, and on every other occasion, to resist their extension.

Sir *Watkin Lewes* said, that he had that day met the citizens of London in common-hall assembled, when they had thought proper to instruct their representatives to oppose the bill. It was a duty which he owed his constituents, and the public at large, to prevent the odious extension of the excise laws; laws so oppressive in their nature, as justly to excite the jealousy of the public. The chancellor of the exchequer had submitted a bill for their consideration, to prevent frauds and illicit practices in the importation of tobacco, and to secure the revenue; but if any other could be suggested, so as to secure the revenue, and prove less exceptionable than that proposed, he hoped the House would agree with him that it ought to be adopted. The gentlemen who composed the committee were some of the most respectable merchants in the city of London, as well as other eminent merchants from other places, upon whom no imputation rested; and those gentlemen stated that it was impracticable for the excise laws to attach upon the manufacturer in the manner proposed by the bill, without transferring the trade to foreign countries. The gentlemen had been charged with acting in a hostile manner; but he appealed to the chancellor of the exchequer, whether they did not propose a plan to prevent fraud and secure the revenue? If that was the case, those gentlemen stood in an honourable point of view; they wished it to be tried as an experiment, and if it did not succeed, they would not have an objection to his own plan; but sir Watkin said, he had a very serious objection; no compensation could be made for depriving the subject of his birth-right, the trial by jury; he therefore took that opportunity of protesting, in

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the first instance, against the principle of the bill, which was the extension of the excise laws. He added, that the same experiment might be made, which was made upon gin and brandy, by reducing the duty; that plan proved successful, and had more than answered the most sanguine expectation; the very high duties on the importation of tobacco would continue to be a temptation to the smuggler; and no bill however severe the clauses, would prevent the smuggler, as long as the temptation remained, from persevering in his illicit practices.

Mr. Alderman *Newnham* said, that the present bill was so odious, that he was persuaded, if there had been a full House, and gentlemen had been indulged with time to collect the sense of their constituents, a considerable majority would vote against it. He lamented that a bill of so much importance should be agitated at all in so thin a House. It was a subject which required very mature consideration, and he hoped the right hon. gentleman would not push the bill through the House with that indecent haste which he had hitherto adopted.

Sir *Benjamin Hammet* expressed his disapprobation of the excise laws in general, the application of which was not more oppressive and tyrannical than their principle was unconstitutional. He believed there was no gentleman in that House who would say fairly, that the king's officers, nominated by his majesty, and dismissed at his majesty's discretion, were the proper people to judge between the sovereign and the subject on questions of revenue. He wished most heartily that an appeal to a jury were allowed in the first instance; he had been assured that some of the commissioners of excise themselves thought it would be of no bad consequence if such an appeal were permitted. If the right hon. gentleman, therefore, wished to immortalize his name, and to stand distinguished as having rendered the most essential services to his country, the granting such an appeal would produce such an effect: but, if he did not think proper to allow of such an appeal, he should think it his duty to oppose the bill.

Mr. *Samuel Smith* said, that whilst he considered the burthens the country laboured under, he was not prepared to go the full length of professing himself a general enemy to all extensions of the excise laws; knowing the necessity for rendering the existing taxes efficient, and that the excise laws were among the most efficacious modes of collecting the public revenues, they certainly must, in some cases, be extended and applied; but then they ought, in his mind, never to be applied unnecessarily, or whenever they could not be enforced without great oppression and vexation to the subject. He expatiated on the inconveniences that would result to the tobacco trade, and to the snuff manufacturers in particular, if they were subjected to the perpetual presence of excise officers. He asked, why were officers of that description to be let into all the secrets of the manufacturer? As far as he had learnt, the extension of the excise laws in this instance was inapplicable, and would not answer the object of obtaining an increase of the revenue.

Mr. Alderman *Watson* said, that tobacco was an article in the importation of which there were frauds committed amounting from 300,000*l.* to 500,000*l.* a-year, consequently before new burthens were imposed on the people, the endeavour to render the tobacco duties efficient was well deserving the attention of that House. But though he perfectly accorded with that idea, he objected to the mode in which, in the present instance, the excise laws were about to be extended. He was one of those who thought we might pay too dearly even for revenue. He knew the revenue had been greatly benefited by lowering the duties on tea, and most probably a similar event would have followed had the duties on tobacco been lowered. With regard to the taking away the right of trial by jury, it was considered as a great instance of tyranny and oppression, and he hoped the time was not far distant, when he should see in every bill enacting, that the excise laws be put in force, a clause giving the subject an appeal to a jury. Till he did find such a clause he should hold himself bound to oppose every extension of the excise laws. With regard to a reflection which had been cast on the chancellor of the exchequer as if he intended a general extension of the excise laws, with a view to strike at the root of the constitution, he thought too highly of his good sense to believe it; but, as an independent member of parliament, he had a right to express his disapprobation of any measure that might be brought forward. He had received the instructions of his constituents to oppose the bill; but it was well

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known that he did not hold that members of parliament ought, in all instances, implicitly to follow the instructions of their constituents; yet, in the case before him, their orders and his private opinion were perfectly congenial.

Mr. *Sheridan* said, he did not rise to prolong the debate, if that could be called a debate, where objections only were offered from one side, and not one word of answer was given on the other. He rose merely to make a single observation, which was, that if the bill were committed for the next day, whatever time might have been given to the tobacco traders and manufacturers to comprehend the clauses of the bill, parliamentarily speaking, no time had been allowed to the members of that House to understand it. The bill had been brought in only two days ago, and printed for delivery that day; it consisted of 125 pages, and no gentleman could, at a glance, comprehend the various bearings of a bill so complicated and extensive in its detail. Before it came into a committee, the members had a right to consider it in all its parts, to consult the manufacturers in person, and to acquire a competent knowledge of the entire subject. The right hon. gentleman had boasted of his having conversed with the tobacco manufacturers of Scotland, London, and other places. If he thought such communications absolutely necessary, before he held himself justified to state the principle and object of the bill to the House, why should not the members be allowed time for equal preparation? He therefore hoped the right hon. gentleman would not press for the committee upon the ensuing day, but would give time for the petitioners to prepare their counsel, and to bring up their witnesses, who were now upon the road.

Mr. *Pitt* said, that with respect to what had been urged, gentlemen had not entered into argument, but had merely made their protests against the bill. All that had been advanced went rather to the clauses of the bill than the principle, and as no gentleman intimated an intention of dividing the House upon the former, it was needless for him to expatiate concerning it. As little reason was there for his entering into a discussion of the clauses, which would more properly come under consideration in the committee. It would be a little extraordinary, if any objection were made to the principle of the bill; for what was the principle? A worthy magistrate had stated that the frauds committed on the revenue in the article of tobacco, amounted to no less a sum than from 300,000*l.* to 500,000*l.*, and the object of the bill was, to endeavour to recover the greater part of that sum, by means of the excise laws, and by accommodating them to that article, which was universally admitted to be a fit article of taxation. To such a principle, the friends of the public credit and of the public safety, could not surely be inclined to object.

The bill was ordered to be committed to-morrow.

Debate in the Commons on the East India Budget.] July 1. Mr. Dundas moved, that the papers relative to the East India company's affairs in India, which had been presented by Mr. Ramsay and Mr. Morton, be referred to a committee of the whole House. The motion having been agreed to, the House resolved itself into the said committee, lord Frederick Campbell in the chair.

Mr. *Dundas* rose. He begged leave at the outset of the remarks upon which it would be necessary for him to enter, to call to the remembrance of the committee the manner of forming the accounts of the revenues of the Indian presidencies and the charges upon them, which he had adopted ever since it had been his duty to state to them yearly the situation of both; and, for the sake of avoiding misconception on the part of those who heard him, he would translate the India currency into sterling British money as he proceeded, which would, he flattered himself, be deemed more intelligible language by the generality of his hearers.

The result of the statement of last year, founded upon the accounts then presented, and referred to the committee, was, to produce a clear surplus after payment of all charges, amounting to 1,289,879*l.*; but, upon reconsidering the subject (said Mr. Dundas), I am disposed to alter one of the data upon which my calculations of last year proceeded. I then took the rupee at an exchange of 2*s.* 3*d.*, that being the rate which the court of directors have been accustomed to adopt; however, as the object of the present statement is to ascertain the real value of the British territories in India, the fair valuation is, to take the rupee at its current estimation there, which is two shillings sterling, and, with

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that explanation, I proceed to lay before the committee the state of our affairs in India.

The first point to be ascertained is, the real amount of the public revenue in India; and first as to Bengal. In the statement of last year, the resolution I moved on this subject, was founded upon an estimate of the probable receipts and disbursements for the year 1787-8. I have no such account this year from Bengal, but I am furnished with the means of giving you information on this point in a manner which you will probably consider as more satisfactory—I can give you the estimate of that year, compared with the actual produce of the same year.

The revenues were estimated at 5,064,890*l.* and from the account now upon your table, they turn out to 5,182,711*l.* which exceeds the estimate by 117,821*l.* That this is not an exaggerated state of the revenues is corroborated by another proof: I mean that which arises from a comparison with the average formed out of this and two former years. It is true that average amounts only to 5,088,765*l.* which is nine lacks below the actual produce of this year. But any objection arising from that circumstance is done away, by noticing that the first year of this average happens to be remarkably low, amounting only to 4,989,178*l.* whereas the second amounts to 5,094,406*l.*, and the third amounts to 5,182,711*l.*, so that it appears to have been an increasing revenue during these three years. And this reasoning is still more corroborated by taking an average of the three years previous to 1785-6, as appears in the resolutions of last year, according to which the revenue amounted to 5,218,814*l.* Upon all these data, I shall think myself fully justified in desiring the committee, in their examination of this subject, to take the revenues at the amount of the actual produce of last year, which was 5,182,711*l.*

I am aware, that in this statement I may be informed that the revenue will not answer to that amount; because the government customs are abolished, which in the account to which I refer are stated at about twenty lacks. But having no account of the revenue of any year since the reduction, I can only proceed on that before us; and I do this without much apprehension of future failure, because the opinion which led to abolish the customs, ought, at the same time, to lead to an expectation of an increase of revenue in other respects, by its operation on the trade and prosperity of the country. It will likewise be observed, that the Calcutta customs are not abolished, and for the same reason will probably increase. I therefore consider the revenues of Bengal to amount to 5,182,711*l.* For the same reason, as already stated with regard to the revenues, I cannot suggest any resolution respecting the charges for the year 1788-9. But it is probable what I am to state will be more satisfactory, because it will show you what the charges of the year 1787-8 actually turned out to be, compared with what I last year stated to you, upon estimate, they would be. In the resolution I moved last year, I suggested that the charges would amount to 3,066,240*l.*; but the actual account of that expenditure amounts only to 3,046,776*l.*, which the committee will observe is about two lacks less than the estimate. So that deducting the actual charges of the year 1787-8 from the actual revenues of that year, the net revenues amounted to 2,135,935*l.*, and the result, on adding the excess of revenues to the decrease of charges, gives a sum in favour of the actual account compared with the estimated one of 137,284*l.*

In stating the revenues and expenses of Madras, I am possessed of the account of probable receipts and disbursements for the year 1788-9, and I am likewise in possession of a comparison of the receipts of the former year 1787-8 with the estimate of the revenues of that year. Before offering any observations on the state of those accounts, I shall call your attention, in the first place, to the amount of the revenues, compared with former averages. With this view you will observe, that any resolution which I move, founded on an average, must be formed only on two years, 1785-6 and 1786-7; for the account transmitted for 1787-8 cannot be connected with the two former years in making an average, because it is only an account of nett revenue, whereas the others are accounts of gross revenues. The resolution I shall therefore suggest, founded on average, will be only for two years, and the amount of the average of these two years is 1,052,438*l.* The next account to which I request the attention of the committee is, the comparison of the estimate of the year 1787-8 with the actual out-turn of that year. The amount of the estimated revenues is 1,205,118*l.*, whereas the actual receipt appears to be

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no more than 997,280*l*., making a difference of 207,838*l*. How far you ought to be discouraged by this failure, you are enabled to judge from sir Archibald Campbell's letter upon your table.

The next account to be adverted to, is the amount of the real and estimated charges for the year 1787-8, and from which it appears that the real charges exceeded the estimate in a sum of two lacks, the former amounting to 1,247,281*l*., the latter estimated at 1,167,016*l*. The difference is 80,265*l*. The reason of which will be found in sir Archibald Campbell's letter, already referred to.

Upon the comparison of the estimated account of the year 1787-8 with the real account of that year, the result is, that adding the deficiency of revenue to the excess of charge, the whole creates upon the account a difference of 288,103*l*. The actual deficiency of receipts below the expenses being on that year 250,000*l*. It will be observed, that the civil charges are less than calculated by a sum of 8,517*l*. And when the state of that country is recollected at the beginning of the year 1788, nobody can be surprised, except at the lowness of the excess of military charges. The committee will recollect, that the beginning of the year 1788 was the time when the accounts were received in India of the expected rupture with France, when, in consequence of the orders from England, sir Archibald Campbell prepared, and was actually in readiness, on a moment's warning, to take the field, with an army sufficient to act with effect, both against our native and European enemies. As to the future prospect, I must refer you to the estimate for the year 1788-9; in which the revenues are estimated to amount to 1,358,453*l*., and the charges to 1,310,487*l*.; leaving a nett revenue of 47,966*l*. Although I shall move a resolution stating this prospect as one that has been held out from the government of Madras, still as there seems to be a difference of opinion how far it is to be realized, and as the estimate of the former year has failed, the only fair suggestion I can offer upon the subject is, to keep your minds in a state of suspense upon it; and I do this the rather, because from the orders which have since gone out, relative both to the nabob of Arcot and rajah of Tanjore, and the system which is now adopted relative to the circars and the collection of their revenues, I am extremely sanguine in the speedy prospect of an improved and permanent revenue under the presidency of Madras; and I shall feel more satisfaction in stating these ideas when they shall be realized, than in detaining you now to detail what various accidents may concur to disappoint. In the statement of the present day, I do not mean to found any conclusion upon this account of the probable receipts and disbursements of the year 1788-9.

In the statement of last year relative to Bombay, I could not give you a three years' average of their revenues, because I was not possessed of any account to justify such a statement; the first of the three years comprehending revenues given up to the Mahrattas at the peace, and not now in our power; but, proceeding upon such materials as I had, I stated the revenues, as estimated, at 136,485*l*. It now appears from an average of three years actual accounts, from 1785-6 to 1787-8 inclusive, the revenues amounted to 136,457*l*. The difference is 28*l*.

The next to be adverted to is that which shows the result of a comparison between the estimated and actual revenues during the year 1787-8, and it appears that the estimate was 136,485*l*., the actual produce 131,026*l*. The difference is 5,459*l*. In the resolution I shall move this year on this subject, I shall follow the resolution of last year, as to the estimate. But it is proper to remark, that the estimate laid before the House last year was erroneous, to the amount of about 25,000 rupees, which was discovered by a subsequent account.

There is likewise before you an account of the charges, as estimated in the statement of last year, compared with the actual charges. The estimate of charges was 423,544*l*. The actual amount 440,841*l*. The difference is an excess of 17,297*l*. Here again it must be observed, that the corrected account to which I have already referred, likewise made a small correction on the estimate of charges, to the amount of about 11,500 rupees; but here, as in the other case, I must follow the statement of the resolution of last year.

Upon the whole, therefore, of the Bombay estimate, as stated last year, compared with the actual result, the account is worse than estimated by the amount of only 22,756*l*. By the estimate of the year 1788-9, the revenues are estimated to amount to 136,200*l*., and the charges to 586,405*l*., the deficiency 456,205*l*.

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It will be observed, the estimate of charges for the year 1788-9 exceeds not only the charges of 1787-8, but the estimate from Bombay for 1788-9, owing to a sum of six lacks of additional military expense; three lacks for an additional European regiment, the other three to complete the establishment ordered in September 1785, but not carried into execution, on account of the deranged state of the finances, till the prospect of a rupture in the year 1787 rendered it necessary to complete the military strength on the western side of India. In a settlement where the establishments are not complicated, or liable to a great variety of contingencies, there is little difficulty of forming the estimates tolerably accurate; and as these establishments are now finally settled, the charges may fairly be concluded to be at their level, and amount to 586,405*l.*, which exceed their revenues 456,205*l.* Upon that footing they may probably remain, unless it may be thought expedient to new model their civil establishments. The military strength is necessary for the safety of the other presidencies.

Not having received any estimate of probable disbursements at Bengal for the year 1788-9, I cannot state what they estimate to be the expense of the establishments of Bencoolen and Pinang; but the revenues of Bencoolen, upon an average of three years, amount to 2,529*l.* The charges are probably reduced, in consequence of the orders of the court of directors to reduce it to a residency, and to confine its expenses to 27,650*l.*; and by the same account it is stated at 29,816*l.* We have no estimate of the expenses of Pinang, but I shall take the two together, as by statement of last year at, 60,000*l.*

To ascertain the precise value of the Indian revenue, calculated upon the data I have stated to you, and in which I have proceeded on actual accounts, add together the revenues of each settlement, and from that deduct the total of the charges.

Actual Revenues in 1787-8.

At Bengal	£.5,182,711
Madras	997,280
Bombay.....	131,026
Total Revenues	6,311,017

Actual Charges, 1787-8.

At Bengal	£.3,046,776
Madras	1,247,281
Bombay.....	440,841
Total Charges.....	4,734,898
Nett Revenues	1,576,119
Expenses of Bencoolen and Pinang, as estimated last year	60,000
Nett Revenue, after defraying every expense of establishment	1,516,119
To this is to be added, as a part of the Indian funds, the amount of the import sales and certificates, which was in the year 1787-8	321,446
	1,837,565

This sum is applicable to the discharge of the debts in India, and the purchase of investment, including commercial charges. The debts are undoubtedly entitled to the preference, if the purchase of investment cannot be obtained without injuring the creditors. In truth, however, these interests are perfectly reconcileable, and accommodate each other.

In explanation of what I now allude to, the committee will recollect what I stated to them on a former occasion, respecting the transfer of the debt from India to England—we authorized the government abroad to tranfer six millions of the Indian debt, by bills on the court of directors at long dates, the principal and interest payable by instalments. This is a measure, the propriety of which some people have doubted; but these doubts must arise from a very partial and circumscribed knowledge of the affairs of India. It will be recollected, that at the time this order was given, the company at home were under large engagements, in consequence of the drafts from India, occasioned by the embarrassments of the war. These were mostly prior, in point of time, to the debts still remaining in India, and of course had a right to a preference in payment; the revenues, therefore, could not with justice be applied to the payment of the debts in India, without at the same time making provision for payment of the debts in England. But this could only be done through the medium of the trade of the company; and therefore the revenues became necessary for the purpose of investment, and by that appropriation the interest of all parties was attended to: for by bringing home the

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debts, all the creditors were put on the same footing; and by this arrangement there was at once a saving proposed in the payment of interest, of between three and four per cent. on the whole capital of the debt; and the revenues, at the same time that they were applied to the payment of the debt, were, in the first place, made subservient to the interest of commerce and navigation, by being made the capital for the purchase of investment. Without such an arrangement, either the debts in India must have remained altogether unprovided for, or the company totally disabled from discharging their engagements at home.

It is true, this measure has not been attended with all these advantages as rapidly as was expected; but that is no fault of the plan, it is owing to the change which has occurred in the sentiments of the European inhabitants in India. They are now confident in the stability of the present prosperity of India, and therefore less eager to transfer their property from that country to this, and rather keep it where they receive a higher rate of interest; but above two millions have actually been transferred, and there is no doubt but that the remainder will gradually find its way to this country, where the fortunes of all the company's servants must ultimately come.

If, however, we suppose the whole debt, as stated in the account to remain in India, which is very improbable, the interest payable thereon would be, by the same account, 480,702*l*. The remainder is 1,356,863*l*.

However, as it may be objected that the charges at Madras and Bombay appear higher in the estimate for 1788-9 than in the actual account for 1787-8, the following statement, with respect to those two settlements, is taken from those estimates; but there being no estimate from Bengal, the gross revenues and charges of that government are, for the reasons before mentioned, taken at their actual amount in 1787-8.

REVENUES.

Bengal Revenues 1787-8	5,182,711	
Madras do. per Estimate for 1788-9	1,358,453	
Bombay do. per do.	136,200	
Total Revenues		6,677,364

CHARGES.

Bengal, 1787-8 ...	3,046,776	
Madras, per Estimate, 1788-9...	1,310,487	
Bombay, per do. 1788-9	586,405	
		4,943,668
Nett Revenues		1,733,696

Whereas, in the account for 1787-8 above stated, the nett revenues appear to be only 1,576,119*l*. The estimate, therefore, for 1788-9 (for Madras and Bombay) after allowing for every probable increase of expenses in that year, is better than the account for 1787-8, by 157,577*l*., and justifies the taking of that year as an estimate of what we may expect from the produce of the revenues of India.

At the same time it will be observed, that from the period at which this account is taken, and there being no account of probable receipts and disbursements from Bengal, we must expect, when that statement comes, we shall find in it an apparent deficiency of revenue, to the amount of the government customs abolished, and an increase of expense, on account of the additional European force, not included in the estimates of the other settlements. But such additional charge will probably be counterbalanced by other savings, which we have ground to believe have been already made. The statement I now lay before you is founded upon the materials actually in our possession; and the following comparative account brings what I have just stated obviously under your view, in which you will perceive, that after allowing 230,000*l*. for the abolition of the customs and the additional European force, without taking any credit for those reductions, the nett revenue is 1,284,440*l*.

In stating the debts, I feel myself again under a difficulty, from the want of the account of quick stock from Bengal. In consequence of this circumstance, I cannot state the amount of the debt, from complete accounts, to a later period at Bengal than 31st January 1788, which is only three months later than the statement I gave you last year, and of course the variation must be small. By the resolution of last year I stated the Indian debt at 7,622,156*l*. According to the account No. 16. I shall state it in the resolution of this year to amount to 7,604,754*l*

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The difference only 17,402*l.* But attention must be given to the note at the top of account No. 16, whence it seems to admit of no doubt, that the debt has been reduced thirty lacks. To this must be added a sum of eight lacks, the expenses of the Southern army, not included in the debt of last year. The debt bearing interest in India was last year stated at 6,410,990*l.* According to account No. 16, the debt bearing interest is 5,776,245*l.* The decrease of debt bearing interest is 634,745*l.* The interest payable annually in India was stated last year at 535,334*l.* The amount payable, according to No. 16, is 480,702*l.* The decrease is 54,632*l.*

Many collateral circumstances concur to confirm me that the statements I have submitted to the committee are not likely in future to assume a less prosperous aspect. In the first place, I build much upon the order and regularity with which the affairs of India are now conducted by the governors there. From the commencement of the present system of government till a recent period, we have been in continual uncertainty as to the real amount of the burthens by which the revenues in India were incumbered: under that uncertainty, we were naturally diffident of every plan and arrangement formed for their relief. I under-rate the case, when I suppose that the debts are not less than two millions more than we were led to calculate at the commencement of the present system of government. Every department of the India government had been so deranged in consequence of the war, that it was impossible immediately to get at the bottom of their affairs; daily calls of heavy arrears and unliquidated demands, disturbed every system which could be formed for the regulation either of commerce or finance. All this, I trust, is now at an end. We know the extent of all our difficulties, and we encounter them without diffidence or apprehension. Connected with the observations I have now made, is the satisfaction we derive from the circumstance of being able to confide in the truth and accuracy of the estimates we receive, relative to the real amount of our current charges and expenses. It has long been the custom of the governments abroad to furnish the administration at home with estimates of the probable resources and disbursements of their respective settlements, and it is probable, that when their affairs were contained within the limited sphere of commercial departments, these estimates were realized with tolerable accuracy. But in proportion as the objects of Indian government, by the acquisition of large territories and revenues, extended beyond their original bounds, their accounts became more complicated, and although the form of estimates were preserved, they seldom afforded any just expectation of being realized. I trust, in the course of this day's detail, the committee have witnessed how wonderfully matters are changed in that respect. The estimates of probable expenses have been accurately realized; and where there is a difference of estimate and actual account, it has been in favour of the estimate, and if in any article it is otherwise, it is most satisfactorily explained. When I thus give credit to the public servants of India, I must, at the same time do justice to the court of directors, in the exertions they are making to increase the revenues in India by the extension of the export trade from this country. The sale of these export goods is a material aid in every arrangement, either of finance or commerce; and, I make no doubt, but that the spirit which now actuates the court of directors, will continue to operate, in a manner equally conducive to their own interest and credit, and to the general prosperity of Great Britain, in the promotion of its industry and population. But, above all, in talking of future confidence in the growing prosperity of our Asiatic possessions, I refer to the state of universal peace which reigns in India, and the flattering prospect of its continuance. This arises, not only from our internal strength, which bids defiance to the ambition of every hostile power in India, but from the thorough confidence the native powers repose in the sincerity of our declarations, and the conviction they feel that our object is peace, and that no temptation will lead us to deviate from that path, unless compelled to do so either by hostilities against ourselves, or those allies whom we are bound by treaty to protect. I shall confine myself upon this topic to India. I need not call upon you to turn your eyes nearer home. If we have any European rivals in India, this certainly is not the moment of alarm from that quarter.—Mr. Dundas concluded with moving his first resolution.

Mr. *Hussey* said, that he felt it incumbent on him to look at the accounts with some degree of accuracy, and to compare

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them with the right hon. gentleman's state of the Indian revenue. He did not mean to controvert the account given by the right hon. gentleman. He was glad to see that the revenues were collected, but he did to take them to be just as the right hon. gentleman had stated them. The right hon. gentleman had stated the debt in India to be 7,604,754*l.*, Mr. Hussey said he thought it was otherwise, but he could not state it, because he could only judge from the papers on the table. From what the right hon. gentleman had said, he thought the government of Bengal in good hands; but he must consider the state of the East India company at home as well as abroad, and how did things look there? The debt of the company here at home as estimated by themselves, had increased from five millions and upwards to eight, and with the transferred debt from India to 9,600,000*l.* How was the declaration of the right hon. gentleman, that he had reason to think the debt of the company reduced, to be reconciled with their coming to that House to ask for leave to borrow more? Their capital had been increased nearly three million, and now they wanted a greater sum. Surely all this was far from having a commendable appearance.

Mr. *Pitt* said, that when the company came forward to ask the assistance of the legislature, the circumstance ought undoubtedly to create suspicion, and to be eyed with jealousy; whenever, therefore, he should make a motion on the petition which had recently been presented, the subject ought to be carefully examined and fully discussed; but he must be permitted to say beforehand, that the petition of the company for assistance at home did not imply any contradiction to the prosperous state of their affairs abroad. Mr. Pitt stated a disappointment in their sales, in the course of the preceding year, when they had fallen considerably short, as one cause of their distress, and he had no doubt but when their accounts should be inspected, it would be found that credit was due to them to enable them to answer the large bills that were drawn upon them in consequence of the transfer of the debt from India to England.

Mr. *Francis* said, he would not pretend to follow the right hon. gentleman in his calculations, but he would state a few strong facts, and leave their impression to the committee; and first, he must remark, in regard to the estimates of the probable resources and disbursements of Bengal, from the 30th of April, 1788, to the first of March, 1789, that he did not think that the right hon gentleman had said any thing to excuse the accomptant general of the Bengal government, for not having sent home that estimate. Mr. Larkins in his letter to lord Cornwallis stated, that six weeks of his time had been arrested from him by illness, and therefore he could not make out the accounts, the clerks in his office however, with very little instruction, could have made them out for him. But if he could not make them out by the 9th of November, he could have surely made them out by the 9th of December, or the 9th of January, which was the latest period before the last ships sailed. He had two whole months after he had written his letter, to have made them out in. Some notice, therefore, ought to be taken from home of such conduct. Mr. Francis observed, that Mr. Dundas had taken the current rupee at the price of 2*s.* He declared, he had always wondered that he had before taken it at 2*s.* 3*d.* It could be only to swell the accounts unnecessarily, because the rupee was not worth more in India than 1*s.* 9½*d.* or 1*s.* 10*d.* at least he had never heard it valued at more by those who understand it best. The right hon. gentleman had said, he deducted to the amount of eighteen lacks, on account of abolishing the government customs, but that there would be no loss. This was somewhat extraordinary. That the country might be richer he could easily conceive, but how the revenue was to be benefitted, so as to be equal all at once, he did not see. Another thing he would take notice of, was the deduction on account of the removal of the chief of Masulipatam. The appointment of one chief before another had realised his own settlement, and completed his collection, was an impropriety that ought also to be censured from home. He had ever understood it to be a rule never to remove a collector till the end of the year, that the tenants might not plead that in refusal of payment. Mr. Francis said, he did not think the right hon. gentleman had stated the whole of the expense at Bombay. The right hon. gentleman had stated this year, as he had done the last year, a real surplus in the revenue of one million; but something more than calculation was necessary to constitute proof. If they had really had a million surplus applicable to the discharge

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of the debt, it must have been applied to that object, or laid out in investment. He should contend that they had not reduced the debt in India at all; and at home an increase had happened, but not by discharging of debt in India. It was extraordinary, that the company's debt in India should not be diminished, and their debt in England increased. He mentioned this now, to show that these surpluses had not tended to lessen the debt in England, or to discharge the debt in India. He wished to know where the surplus was gone, because in former times, goods were never disposed of to the amount that they had been lately. The right hon. gentleman had said the exports were increased. He asked, had they imports to fill the company's ships? As a proof that they had not, he mentioned, that in looking over the Calcutta papers, he found an advertisement from lord Cornwallis, soliciting the people to bring their goods on board the Phœnix and Northumberland in order to make up the freight of those vessels. Mr. Francis commented on this as an extraordinary fact. He next noticed, what was stated as a fact, that the commercial establishments at Bengal were forty lacks; which was not mentioned, and must have been omitted through an oversight. Another circumstance was, the expense of the four new regiments sent last year to India, which ought to have been stated in the estimate, and the amount of it must be deducted from the supposed surplus. He concluded with remarking, that as long as the debts abroad were not diminished, and those at home were increasing, the right hon. gentleman's budget could afford no satisfactory account.

Sir *Grey Cooper* expressed his apprehensions of the consequences of the immense drain of bullion sent to China for tea. If a similar amount of silver, or any thing like it, were carried out of the country by smugglers for their run goods, it would find its way back through a variety of channels; but when sent to China, it was committed to the lion's den —vestigia nulla retrorsum.

Mr. *Dundas* rose to explain. With regard to sending silver to China, if the smugglers took silver of us for tea, it must go through the medium of foreign ships to China, and it was in that case as much gone for ever, as if sent to China immediately by ourselves. There would be less silver sent there hereafter than formerly, the large amount transmitted of late years being to liquidate our existing debt in China. With respect to the impropriety of removing a chief from any settlement, before he had completed his collection, there appeared to be reason in the argument, but the court of directors had a right to act in that respect as they thought proper, and he supposed they would have a good reason to assign for it. Mr. Dundas explained the cause of the advertisement for freight, by stating that there was a distinction between the private trade and the privileged trade. The former was the portion of goods allowed the captains of the company's ships to put on board their vessels; whereas the latter was the trade carried on by the company's permission, in articles they did not think it worth their while to ship for England themselves, as raw silk, &c. This gave an opportunity to private individuals to bring home their fortunes, and at the same time supplied Great Britain with raw materials, that were highly useful, and in fact necessary to some of our most valuable manufactures. With regard to the debt, all he had to prove was, that there was a surplus in India, which was applied to the purchase of investments, and by that means applied to the diminution of the debt transferred home. With respect to the debt still remaining as much as before, the fact was, the debt in India, upon examination, turned out to be two millions more than it was stated four years ago. All, however, that it was incumbent on him to prove was, that there was at this time a surplus above the current expenses, and whenever any hon. gentleman should bring forward a question on that point, he should be prepared to meet that question. The situation of the company was prosperous; and notwithstanding the many embarrassments they had been obliged to encounter, and the outcry which had for some time been raised against them, he had no doubt they would pass through their fiery trial with credit and with honour.

Major *Scott* rose and said: I rise with a peculiar degree of satisfaction to offer a few remarks to the House, on the day expressly appointed for taking into consideration the state of the British government in India. It is highly honourable to the king's ministers that they do now, for a third time, bring forward to the view of parliament and the public the actual state of that distant empire. It has been

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my warmest wish, at all times to detect and expose those most fallacious and ridiculous accounts which have been detailed in this House and elsewhere, relative to the state of Bengal and its dependencies. Gentlemen are well aware that where two representations of the situation of a whole people are given, totally differing from each other in every particular, both cannot be true. Those who sit opposite to me have for some years past been in the habit of describing the natives of Bengal and its dependencies, as reduced to the lowest state of misery and subjection, the people fleeced of their property, the revenues collected with a degree of severity, at which humanity shudders; wanton oppression, gross injustice, deliberate, unprovoked tyranny, marking every act of the British government; and the system established at home expressly calculated to perpetuate those miseries which it professed to remedy. This is no exaggeration; those who have attended to the debates of this House, or to proceedings elsewhere, well know that our language has been ransacked for epithets sufficiently forcible to condemn every part of the present system. I will not again allude to the dreadful tales that have been told—tales which this House knows now have no foundation in truth, but by which I will confidently affirm, that parliament and the nation have been degraded, dishonoured, and disgraced in the eyes of all Europe. Were they believed, those humane and liberal-minded men, who, without farther inquiry, would have abolished much of the important commerce of this country, must, I am sure, have long ago proposed to withdraw every Englishman from Hindostan. This House has now every possible means of information before them, and I know that the gentlemen opposite are not ignorant of the true state of Bengal. For what purpose is it then, that the national character continues to be degraded throughout the world? Is the voice of calumny to be incessantly employed, because those who served their country in India had the good fortune to do, what many who were employed elsewhere could not accomplish? But I have too much confidence in the honour and good sense of this House, to think that gentlemen will shut their ears to conviction. I will not presume to advance one word which I cannot support, either by evidence upon your table now, or by evidence that can at any moment be called to your bar. Nay I would even venture to appeal to the hon. gentleman opposite (Mr. Sheridan) to prove the fallacy of those accounts which have been so confidently delivered, since that gentleman has a general acquaintance, and has other means of information, by which he must know how grossly erroneous all the statements have been that were given from gentlemen on that side of the House as to Bengal, Benares, or Oude.

An hon. gentleman, (Mr. Francis) for the first time that an India budget has been opened, has omitted to say one word as to the state of the government of India, or to reprobate the system under which it was governed. This I take to be a good omen, and I hope we shall all agree in the end. Twenty-five years have elapsed since this nation has possessed an absolute sovereignty over one of the finest and most populous kingdoms of the earth. It was our policy for the first seven years of the period to leave the entire government of the country in the hands of one Mahomedan; but from 1772 to the present moment, the government of the country, the collections of the revenues, and the administration of justice, have been in the hands of the English themselves; and I affirm it to be an incontrovertible truth, that from 1772 to the present hour, Bengal has been in a rapid state of improvement, with respect to agriculture, population, and commerce. The king's ministers, and those who have access to the best official information, admit the truth of this fact. It is confirmed by the solemn declaration of every gentleman who arrives from Bengal. It is proved by the productiveness of the revenue, and by the astonishing drains which that country has borne during the late arduous struggle for existence in India; and yet, the fact has not only been denied in this House, but the authority and the name of the House are used in disseminating to the world the most solemn declarations, that by mal-administration "the welfare of the East India company has materially suffered, the happiness of the natives of India been deeply affected, their confidence in English faith and lenity shaken and impaired, and the honour of the Crown, and character of this nation, wantonly and wickedly degraded." Such is one of the melancholy representations which this House has nominally sanctioned. Let any gentleman read what the House has said relative to the mode by

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which the revenues of Bengal have been for years, and are at this very moment collected. If I am to believe what this House has solemnly declared to be true, I must say that the revenues have been and are collected in a manner "vexatious, oppressive, and destructive to the inhabitants of Bengal; and that the rights of private property have been most notoriously and scandalously violated." If the description of the internal government of Bengal is thus melancholy, it is so in a still greater degree as we advance upon the Ganges. Gentlemen have all heard the state and condition of Benares and of Oude, as described both in and out of the House, and as described in the name and by the authority of the House. Let me therefore now proceed from unquestionable evidence to do away this load of gross and foolish misrepresentation, which, though it may advance the views and designs of a faction, degrades us in the eye of the public.

I shall in no case now presume to quote the authority of that gentleman whom this House has thought proper to impeach, but I have an undoubted right to quote, as complete evidence, the solemn declaration of his immediate successor, sir John Macpherson. On the 10th of August 1786, sir John writes as follows to the court of directors: "The condition in which earl Cornwallis will receive the government of India is creditable to the company, and cannot but be satisfactory to the nation. The native inhabitants of this kingdom, are, I believe, the happiest, and the best protected subjects in India; our native allies and tributaries are satisfied, and confide in our protection; the country powers are emulously aspiring to the friendship of the English; and from the king of Tidore towards New Guinea, to Timur Shaw on the banks of the Indus, there is not a state that has not lately given us proofs of confidence and respect." I will not pay so fulsome a compliment to sir John Macpherson (whose merits I am as ready as any man to acknowledge) as to say, that this happiness of the natives, this respect and confidence of foreign powers, was the consequence of any measure recently pursued. The fact is, that the British name then, and for years before, stood high in India; and that the natives of Bengal were then as they had been for years before, the happiest and the best protected subjects in India. Another gentleman who has long served the company in very important offices, and now fills with great credit to himself and advantage to the company, one of the first offices it has to bestow (I mean Mr. Shore), said in the year 1781, "that the natives were happier, and their property better secured under our government than under that of their former sovereigns. This," says Mr. Shore, "I speak with all the confidence conviction inspires." The same gentleman defended the government of Bengal in the last year, when it was asserted that severities used in a distant province to compel the payment of balances were common in Bengal. The fact was positively denied, whatever might have been the practice in a remote corner of a distant province. This was said when the charges preferred against Deby Sing were finally determined upon; and, for the honour of the British nation, I trust the time will come when that story shall be fully investigated in this House.

The next document to which I shall refer, in proof of the prosperous state of Bengal, is a very curious letter from Mr. James Grant to earl Cornwallis, now upon your table. A more authentic or a more conclusive document, cannot be produced. Salt is a necessary of life in all countries, but more particularly so in Bengal, where some of the casts eat no flesh meat, others very little, and where salt is consumed by all. Mr. Grant has had access to every official document, and to every other channel of information, necessary to elucidate the subject on which he writes; and he has proved that the consumption of salt in 1780, was considerably more than a third beyond the consumption of the same article in 1765. He then adds, "a lapse of fifteen years under the lenity of the English government, had certainly operated a very material change in the state of things. Greater security and freedom in agriculture, manufactures, and commerce, increased considerably the population of the country, with the wealth and the prosperity of its inhabitants. An additional consumption of all the necessaries of life was a natural consequence, and fully evinced the improved condition of the British provinces." In another part of his letter, Mr. Grant states this as indicating with moral, infallible certainty, a prodigious increase of population, and all its concomitant advantages, in a period of little more than twenty years." And arguing from the data he has laid down, Mr. Grant supposes the inhabitants under

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the Bengal government to be 13,600,000 souls. The letter is decisive as to the point for which I moved for it, which was to show the improved and the improving state of Bengal under the British government. This gentleman was appointed to a very considerable office under the Bengal government, not by Mr. Hastings but by sir John Macpherson. His character stands high and unimpeached; his assiduity is unremitted; and I am thoroughly convinced of the truth of his statement, and of the justice of the conclusions which he draws from it. The same gentleman has written an analysis of the revenues of Bengal, Bahar, Orissa, the Northern Circars, and Benares. They are very voluminous, and contain much valuable information, all tending to confirm most fully every thing that I have stated to this House: in particular, the analysis of the Benares revenues, states that forty lacks is a very moderate annual assessment, and utterly does away every assertion that has been made by gentlemen opposite to me, relative to the state of that district, or to the rights of its zemindars.

In addition to Mr. Grant's authority, I can quote the sentiments of every English gentleman who has left Bengal in the seven last years, and particularly a gentleman of great knowledge and observation, who was twelve years beyond the company's provinces. That gentleman (colonel Polier, who has lately arrived) assured me that in passing from the banks of the Carumnassa, which divides Bahar from the province of Benares, down to Calcutta, about 520 miles, he saw a country improved beyond what he conceived was possible in such a space of time. The next evidence that I shall adduce comes most pointedly to the fact; I mean the testimonials transmitted by all the principal natives of Bengal and its dependencies, relative to Mr. Hastings. If gentlemen opposite to me will not believe the solemn assertions of every English gentleman who arrives from the country; if they continue to this moment to affirm that Bengal is ruined, exhausted, and desolated; I hope they will alter their language after they have heard what the natives themselves say, from the highest to the lowest ranks amongst them, and that uncontrovertible evidence is now upon the table of this House. The manner in which these testimonials have been sent home, eludes every possibility of suspicion as to their authenticity. It is a fact of universal notoriety that the natives were eager to show their respect for the British government, to declare the happiness which they enjoyed under the protection of the man who for thirteen years had been placed over them; and who, in point of fact, first reduced that government into system. That these testimonials are highly important to the gentleman of whom they make such distinguished and honourable mention is certain; but to this House, on this day, they are also important, in so far as they fully confirm all that every well-informed person has said, of the superiority of the English government in India over that of any native administration whatever. What is said upon this subject by one man is so peculiarly striking that I shall beg leave to repeat it. Meer Ashruff Dean Hosemy, who signs the Patna address, adds after his name these words: "From the justice of Mr. Hastings, his protection of the people, and his excellent conduct towards them; the people of other countries desired, as for example those of Cashmire, to lift up their hands in prayer, that God would make the English government the lot of their country."

Having now laid this ground-work, I shall refer to my last evidence, which binds and fixes the whole; I mean the estimated and actual receipts of revenue under the Bengal government for one complete year. The estimated revenue for 1787-8 was 5,064,890*l.* 12*s.*; but the actual revenue received was 5,182,780*l.*; the estimated expenses were 3,066,000*l.*; the actual expenses were 3,046,000*l.*; so that from the receipts and expenses of Bengal, described by some gentlemen as oppressed, ruined, and depopulated, there was in the last year a real available surplus in Bengal of revenue beyond expenses of every denomination, of 2,135,930*l.*, considerably exceeding the surplus which it was estimated the last year would afford. Whether this surplus has been wisely disposed of by paying it away in part to Madras or Bombay; whether the military establishments there so far beyond their means of paying, ought or ought not to be reduced, is no part of my argument; for on this day I wish to confine myself to Bengal, and to show that there is no other country upon earth that can boast of such a surplus revenue, that there is no country more flourishing, nor body of people more happy or contented. The right hon. gentleman who opened the budget contented himself with merely stating the amount of

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the receipts and expenditure, but, with the leave of the House, I shall say a few words upon the most material items. The first is the Benares revenue. Gentlemen will see that more than the estimated revenue is actually received. The total above forty-five lacks of rupees. Does the right hon. gentleman, or any other person, express the least doubt as to the collections of future years? On the contrary, does not Mr. Grant say that the assessment is moderate? How is that to be reconciled with what this House has said as to Benares? How is it to be reconciled with what the representatives of this House have said elsewhere, relative to the state and situation of that valuable and flourishing province? This House has pronounced that country to be totally ruined and desolated. Destruction, devastation, and oppression, are the epithets used by this House in describing the state of that country at no very distant period. The description, I confidently affirm, is not true, because the House knows that from a country so described no revenues could be collected. The sums received, and the united voice of the natives, are a sufficient refutation of so gloomy an account. So far from the revenue which Mr. Hastings fixed in 1781 falling short, it is likely to increase from the addition of the opium, which earl Cornwallis has taken for the benefit of the company.

The next article is the Oude subsidy, above 525,000*l.*, of which at the end of the year the trifling balance of 5,500*l.* only remained. Will gentlemen have the goodness to recollect for one moment what has been said in this House relative to Oude? Do they not remember that when a right hon. gentleman (Mr. Fox) brought in his celebrated India bill there was a balance of above 700,000*l.* due to the company from Oude? Do they not remember that by one dash of the pen he struck out the whole? Yet since that period the whole has been paid. By papers before this House we know that eight millions sterling was received from Oude in eight years; and that by the present arrangement the nabob pays more than the third of the expense of our army. But is there a man in the kingdom who gives credit to the accounts which he has heard, or the articles we have voted, who will not say that instead of receiving half a million annually from Oude, we ought, for years to come, to send half a million a year into that country?

And here let me seriously call the attention of gentlemen to a fact, which I have often mentioned before. This House passed thirteen articles relative to Oude, but did not, and could not, read them, as I can prove from a reference to the journals. In those articles the present system by which Oude is connected with Bengal is condemned in all its parts. The minister, Hyder Beg Khan, is termed, in those articles, "an implacable tyrant," and the power with which Mr. Hastings invested him is stated to be monstrous, and the act itself highly criminal. Will the House be pleased to hear what earl Cornwallis, and the directors, under the sanction of the king's ministers, say as to the system by which Oude is governed? Earl Cornwallis says, 20th April, 1787, "The only material difference which has taken place in the engagements between this government and the nabob vizier, relates to the brigade stationed in Futtyghur: the continuance of which body of troops in the dominions of the vizier I deem equally essential to the interest of the vizier and the Company. In other respects I have nearly adhered to the principles established, by the former governor-general, Mr. Hastings, and since confirmed by the orders of the court of directors. All the subsidiary arrangements have been formed with a view to strengthen those principles, and render them permanent." So late as the 8th of April last, this communication is replied to by the directors, and the king's ministers, as follows: "Having attentively perused all the minutes, proceedings, and letters, referred to in these paragraphs, and in your subsequent advices on the subject of the late agreement, concluded by earl Cornwallis with the vizier, we approve of the general arrangement, and of the principles on which it was formed." How is this decided approbation, and the continuance of the system, with the full knowledge of this House, to be reconciled with our permitting those articles to which I allude to remain upon our journals? I shall push the subject no farther.

In Bengal gentlemen will see, that the revenues from land, salt, and opium, are much beyond the estimate: the two latter were in fact created by Mr. Hastings himself, and produce considerably more than half a million a year. And here I desire to call the attention of the committee to another curious fact. If gentlemen will look to the total revenues of Bengal,

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including Benares and Oude, in the last ten years, they will find a very remarkable equality in them; the difference not more than 8 or 10,000*l*. And when it is considered that above five millions sterling a year have been received, the difference in each year's receipts bear no proportion to that difference which every gentleman of landed property in this House feels in proportion to the amount of his income, either from the failure of tenants, or the repairs of farm-houses. In point of fact, during the whole of the late war, the resources of the Bengal government were equal to what they now are; or how could we have so successfully resisted the whole world? During that war Bengal supplied Madras and Bombay with above seven millions sterling in money and provisions: and it has sent immense sums, since the peace, to liquidate arrears, and to pay establishments. The more gentlemen go to the bottom of this subject, the more they will be convinced that I have never deceived them in any statements.

I have now, my lord, endeavoured to state the actual state of Bengal, Benares, and Oude, under a system so strongly, and allow me to add, so absurdly reprobated in all its parts. No gentleman can entertain a more exalted opinion of earl Cornwallis than I do; nor will any candid man withhold, either from the board of control or the directors, the applause which they so justly merit. But I will not so far offend against common sense as to say, that the flourishing state of Bengal is owing exclusively to measures which they have pursued. For the economical arrangements that they have established, and which earl Cornwallis has so vigorously enforced, every praise is due; but the fact I wish to impress so strongly upon the committee is this, that in the system no alteration has been made. In Oude, as earl Cornwallis tells you, the system established by Mr. Hastings is adhered to; so at Furrukabad; so with Fyzoola Cawn; Benares the same. Full credit is taken for all the sums collected from these countries, and the system is continued. In Bengal there is no alteration. Mr. Shore, who is at the head of the revenues under lord Cornwallis, was in the same situation under Mr. Hastings. Zemindars, in some instances, farmers in others, collect the revenues now as they did when Mr. Hastings was there. Salt and opium form two great branches of the public revenue; both, in fact, created by Mr. Hastings. Justice is administered now as it was when he was there. The inland customs only have been abolished, and the House knows that Mr. Hastings recommended the abolition of them many years ago. To ensure the continuance of prosperity in Bengal, this House, against the most vehement and continued opposition of the gentlemen opposite, conferred additional powers on the governor-general. I then predicted the happy effects which that salutary law would produce, and we now experience them in the highest degree. I remember, when I sat in the gallery in the last parliament, that a right hon. gentleman (Mr. Fox), who but the year before had described the miserable state of the British navy, took occasion to state it as highly flourishing, under the unremitting attention of the then first lord of the admiralty, lord Keppel. A noble lord (North) very properly observed in reply, that ships could not spring up like mushrooms; that infinite credit was due to the late lord Sandwich, though that right hon. gentleman proposed to the House to address his majesty to remove him from his councils; and he might say to the present lord, "Alexander has conquered with the soldiers of Philip." So it is in Bengal; the prosperous state of that country has not been the work of a day, nor of a year, but it has been in a progressive state of improvement, under the mild influence of the British government for a series of years, until it is now become, as a right hon. gentleman so emphatically deemed it, the brightest jewel in the British Crown.

Mr. *Dempster* could not agree that India, a country without constitution, was so free from oppression as the hon. gentleman seemed to think; it was clear, that till last year she had groaned under the internal oppression of government customs, having toll-bars and offices erected over every river, and across the entrance of every road, so that the miserable natives were obliged to pay repeated duties, and many of them arbitrary, before they could carry the produce of their own industry to any market. The removal of these despotic obstacles to commerce and manufactures would, he had no doubt, operate advantageously in favour of the revenue, to the full extent stated by his right hon. friend. There yet remained an article of oppression

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which called aloud for remedy, and that was an article of revenue. He meant opium. It would be found, in the records of the company, that after bread had been sown, and growing, a land-holder had been obliged to plough his field up and sow poppies. The land-owner, being the opium contractor, obliged the ryots, or peasants, to give poppies the preference over every other product of cultivation. In respect to the article of cotton, till within these few years, we could not manufacture it alone; whereas now, muslins and an innumerable quantity of cotton articles were manufactured, insomuch that millions of pounds of cotton were manufactured every year. The raw material, therefore, and not the material manufactured, should be allowed to be brought over. Indeed, till now, there was not one instance of the company being allowed to bring over any goods which interfered with ours. In another and very essential point, the right hon. gentleman seemed to be running into the same mistake which we were committing here at home, that of keeping the military establishment in India so high. Profound peace was declared to reign at present in India; to what end, then, maintain a large army of natives there? European troops were our best security. On the bravery and prudence of British officers, we must place our dependence for the safety of our East India territories; it was by a consciousness of their valour and skill that we were enabled, with an army of no more than ten thousand Europeans to keep millions in awe. Mr. Dempster stated the possible evil of an Indian governor-general being embarrassed with a large and expensive army, when he might have an exhausted treasury. They might mutiny, and do more harm than the worst enemy. If, at such a terrible moment, a governor-general should happen to know where there were some hundred thousand pounds to be found in a corner, which might be just enough to avert the threatened danger, and the governor were, in the hour of extremest exigency, to seize upon it, on a principle of state necessity, they might possibly impeach, and put him upon his trial.

The several resolutions were put, and agreed to.

Debate in the Commons on the Newsmen's Petition.] July 1. Mr. *Dempster* said, he had a Petition to present from a number of Newsmen, who were in danger of having their interests materially injured by a clause in the bill before the House, imposing an additional duty on newspapers. That clause was not a part of the bill originally, but had been introduced in it by certain persons who wanted to prevent others of the same trade from deriving an equal share of profit from their business. With regard to the not suffering petitions to be presented in the same session in which a tax passed, if it came a year after the injury, it would come too late to be of any service. He had found several precedents as to petitioners being heard against regulations contained in a tax bill, and one against a tax itself. The latter was in the year 1780, when the sixpence was put upon the malt; he added, that the hawkers and pedlars had been heard upon the bill affecting them, when it was before the House.

The *Speaker* apprehended that it had long been thought the rule of the House not to receive petitions against a tax bill, till after the ill consequences of it had been ascertained, and that the rule had obtained on two principles; first, that when that House voted a tax in aid of the current services of the year, it proceeded on the exigency of the case, which would not admit of delay, and therefore, they did not suffer the passing the tax into a law to be procrastinated by hearing the parties interested against it; and secondly, the House claimed to itself the credit of having sufficiently apprized itself of the probable consequences of any tax, before it was voted as an article of ways and means. There might possibly be modes adopted, by which petitioners against a regulation in a tax-bill might be heard, either by separating the regulation from the body of the bill, and making it a bill of itself, or in some other way.

Mr. *Pitt* said, that even if the petition were not presented, there would be full time for the discussion of its merits in the future stages of the bill. The hon. gentleman had contended, that the petitioners ought to be heard before the bill passed, and not afterwards; whereas the practice of the House undoubtedly had been the reverse, and clearly for the sake of accommodating government in passing supply bills. If the rule were different, every tax might be opposed, and counsel desired to be heard against it. With regard to the precedents, that respecting hawkers and pedlars, was a very different case.

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There the hawkers petitioned against a regulation imposing an additional duty upon themselves; but, in the present instance, it was a regulation to aid the supply. The regulation was against persons hiring newspapers, instead of buying them, and therefore was material to the sale of newspapers, upon which the increase of the revenue depended. He would recommend it to the House to adjourn the consideration of the subject to a future day.

The debate was accordingly adjourned.

July 8. On the order of the day for resuming the adjourned debate,

Mr. *Pitt* said, that it was contrary to the practice of the House to receive the petition, it being a petition directly against a tax bill in aid of the supplies of the year; because if the clause in question were left out it would diminish not only the old revenue but the identical increased revenue intended to be produced by the augmentation of the tax. He must therefore consider it as his duty to resist the bringing up of the petition, but he felt the less scruple in doing so, because in the committee, when the clause came under particular discussion, the petitioners would have the full advantage of all the arguments that could be urged in their behalf.

The question, that the petition be brought up, was then negatived.

Debate in the Commons on the Newspapers Duty Bill.] The House resolved itself into a Committee on the Newspapers duty bill. When they came to the clause restricting newsmen from lending out newspapers to read for hire,

Mr. *Pitt* said, that in the consideration of the probable effect of this clause the question necessarily resolved itself into two heads; first, how far the enforcement of the clause would prove inconvenient to the public by depriving them of a luxury; and next, how far it could be considered, as oppressive and unjust to the newshawkers by depriving them of the means of obtaining their livelihood? With regard to the first, he did not wish to deprive individuals of the luxury of reading a newspaper, a luxury which both sides of the House would agree was a fair object of taxation; but he did not feel any pain in making people pay very dear for it, taking care that the most considerable part of its price went in aid of the public necessities. If individuals did not choose to go to the expense of purchasing a paper, they might, four of them, buy one among them, and by that means still read a paper for a penny each. Whereas as the practice prevailed at present, a news-hawker lent out a newspaper to twenty or thirty readers, thereby cutting off the receipt which the revenue would have if five or eight papers were sold among twenty or two and thirty people. As to the hawkers, he had reason to believe they would not be affected, because he understood, that the newspaper lenders for hire, and the newspaper sellers were the same persons. In consequence of putting a stop to the practice of lending out newspapers to read for hire, the call for newspapers would, in all probability, be increased, though possibly the number of newspaper readers might not be increased; the profit, therefore, which they would derive from so many more newspapers that they would sell, must compensate for their being prevented from lending so many to hire. The regulation, in fact, would only affect one part of the newsmen's business, and they would not have to fly to another trade for a livelihood, but to another part of their own trade, which was thus two-fold. There was no mystery in the occupation of a newsman; he had not dedicated his mind to any art entirely; if his present mode of getting a livelihood failed him, he could easily resort to another, and he had no claim to have the profits which he derived from lending out newspapers to read for hire secured to him by the legislature.

Mr. *Drake* said, that any thing which tended to prevent the circulation of newspapers, prevented the people from being acquainted with the virtues of the minister, which ought to be blazoned from one end of the kingdom to the other, from the Land's End to John O'Grott's house. A newspaper was a species of necessity. He had no reason to dislike them, for he often saw well-shapen speeches in them in his name, when he knew that he had made disjointed ones. He mentioned their utility in the advertisement line; if a man wanted employment, or a woman work, an advertisement would obtain either. He expatiated on their excellence in thus keeping females engaged, and rescuing them from prostitution, and concluded with saying, "let people read newspapers, love their king, serve their country, and admire the present administration."

Mr. *Rose* said, that the practice of

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hawking newspapers to lend for hire began when the last halfpenny was added to the stamp duty, and had increased so much of late that it was high time to check it. It led to more mischief to the newspaper proprietors than gentlemen were aware of, the hawkers often lending out their papers to twenty or thirty persons in town to read, sent them into the country afterwards at an under price, and thus injured the country newspapers.

Sir *Joseph Mawbey* thought a newspaper a very necessary thing; every man ought to attend to the public proceedings of his country; it was by watching them that Englishmen could alone expect to preserve their liberties. He wished newspapers would quit scandal, and avoid injuring private families; he nevertheless thought them useful guardians of public freedom, and admired, that in the space of less than twenty-four hours, such valuable magazines of taste, genius, information, and entertainment could be prepared.

Sir *James Johnstone* professed himself a friend to the liberty of the press. The being sometimes abused, did not, he said, hurt the members of that House. No gentleman, he believed, eat his breakfast the worse for a little abuse. At the same time, he owned, abuse did not sit easy on his stomach. But should the abuse of newspapers continue, let the minister make that abuse the subject of taxation. If abuse made the papers sell, why not charge two-pence additional stamp duty?

Mr. *Sheridan* considered it as a principle too erroneous to be introduced for the sake of an advantage so trivial. He was a friend to newspapers, not because they blazoned forth the virtues of the present administration, but because they proclaimed their actions. He was glad they would state that there was so thin an attendance when the most important business was before the House. The right hon. gentleman had said, that those who let out newspapers derived two parts of their livelihood from newspapers, the one from the loan of them, the other from their sale, and that therefore the clause would not take away their livelihood. It would nevertheless take away one part of their livelihood. It was soothing one set of men for oppressing them by oppressing another; and as the hawkers and pedlars were sacrificed to the shopkeepers, so now the newsmen were to be sacrificed to the newspaper printers. He declared himself against the tax, which he thought injudicious, because it would be unproductive. He lamented the abuse of the press, but thought that it should not be checked in such a manner. The laws afforded every man who was injured by the press ample redress, and it ought not to be in the power of ministers, by unreasonable impositions, to load it so as effectually to prevent its exercise. The additional tax on advertisements was highly injudicious, and would prove a loss rather than an advantage to the revenue. It was not the casual advertisers, such as the want of a horse, the sale of a chaise, the loss of a watch, who were to be looked up to, but the staple advertisers, the auctioneers and booksellers. The latter allotted a given sum for advertising, according to the price of the book, and if by increasing the charge of each advertisement the given sum would pay for so many advertisements short of what it would do formerly, the revenue must consequently lose in proportion as the number of advertisements diminished.

The committee divided: Yeas, 29; Noes, 9.

Debate in the Lords on the Bill to prevent vexatious Proceedings with respect to Tythes, &c.] July 3. The order of the day being read for the second reading of the bill "for preventing vexatious proceedings with respect to tythes, dues, or other ecclesiastical or spiritual profit,"

Earl *Stanhope* moved, that the bill be committed. He went at length into the discussion of the principle of the bill, and began by explaining to the House the religious scruples of the Quakers which prevented their paying tythes. It was, he said, a scruple recognized by law; for that scruple was recited in the act of the 7th and 8th of William 3rd, c. 34, s. 4, and, in consequence thereof, it was enacted, that tythes due by Quakers might, if under 10*l*., be recovered in a different manner from tythes due by any other persons. After this humane law had passed, the manner in which tythes were recovered from Quakers was by application to two justices of the peace, who ordered a distress to be made on the Quaker's goods. But, latterly, some of the clergy were not content with the property, but they seized and imprisoned the persons themselves: and a Quaker, a man of some property, as he was informed, was imprisoned above two months ago in

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the common gaol of Worcester; was there still, and (though confined for a sum of five shillings) must there remain for life.—Earl Stanhope explained to the House two ways in which this might happen by the laws as they now stood. First, by means of the 27th Hen. 8th, c. 20, s. 1, by which it is recited that "Forasmuch as divers evil-disposed persons, having no respect to their duties to Almighty God, withhold their tythes and oblations, as well personal as predial, due unto God and his holy church; for reformation whereof, it is enacted, that for such subtractions of any of the said tythes, offerings, or other duties, the parson, vicar, or curate may, by due process of the ecclesiastical laws of the church of England, convene the person offending before his ordinary or other competent judge, who, for any contempt, contumacy, or disobedience, shall make request to any two justices of the peace for the shire to assist; that then such two justices shall have power to attach the person against whom such request shall be made, and commit him to ward, there to remain without bail or mainprize, until he shall have found sufficient surety (to be bound by recognizance or otherwise) to give due obedience to the process, decrees, and sentences of the ecclesiastical court." Now as all Quakers, by their religion, never can give such obedience, this law is, for all Quakers, imprisonment for life. At Coventry no less than six Quakers have been persecuted very lately. These persons owed, for Easter offerings, about four pence each, making in all about two shillings. For which trifling sums they have been brought into the spiritual court; and the expenses of the court, the proctors, &c. have been so enormous, that the whole charge made against these six persons has amounted to 166*l.* 11*s.*, besides 128*l.* 1*s.* 6*d.* for the Quaker's proctor in the country. Thus it happens that these respectable and inoffensive Quakers are become debtors to the amount of near 300*l.* instead of two shillings. But as by their religion they never can pay, nor any of the other Quakers for them, some of them have been excommunicated; the consequence of which is, that they cannot act as executors, that they cannot sue in any court, to recover any debt due to them, and, in forty days after excommunication, they are liable to be sent to prison, there to remain till death shall deliver them from a gaol, where they may be dying for years, and perish by inches; and this merely for the sake of a few pence; which few pence even might have been immediately recovered by means of the humane act of king William, had the priest thought fit.—These, said earl Stanhope, are instances of ecclesiastical tyranny and oppression, and of cold, deliberate, and consummate cruelty, which would disgrace any set of men whatever. Some of these Quakers are so highly respected at Coventry, that some of their neighbours, who are not Quakers, have, within these few weeks, raised money by subscription to stop all further proceedings against them. The consequence of which must be fatal to the whole body of Quakers in future; as that will only serve to whet the avarice of the proctors of the spiritual court. Let the clergy recover their tythes, even to the last farthing, but not by means tyrannical or vexatious.—The origin of tythes in England (as appears by Dr. Burn's Ecclesiastical Law) was, that Offa, king of Mercia, basely murdered the king of the East Angles, and in order to expiate this murder, he made a law, whereby he gave unto the church the tythes of all his kingdom of Mercia. This was as long after Christ as the year 794; and it was about 60 years after that, that Ethelwulph extended this regulation to the whole realm of England. So that it was not till about the year 854 of the Christian æra, that tythes were recoverable throughout England, by the coercion of the civil power. Lord Coke observes, that in the Saxon times tythes were recoverable in the county court. When application is now made to the spiritual court (or court Christian, as it is called) for the recovery of tythes, the refusal to pay them is followed by excommunication against any person who shall so refuse; and that excommunication is again followed by process *de excommunicato capiendo*, to carry the person excommunicated to prison. But afterwards, by the 13th of Edw. 1st, stat. 4, it is enacted, that demands respecting tythes are to be made in a spiritual court, and that the spiritual judge shall have power to take knowledge, notwithstanding the king's prohibition.—The ecclesiastical usurpation was confirmed by subsequent statutes. Tythes may be sued for in the courts of equity; and it is intended by the present bill to suffer all tythes or dues, above a given sum, to be sued for in the

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courts of law; and under that sum, to be recovered before justices of the peace. And by the act of the 2nd and 3rd Ed. 6th, ch. 13, sec. 1, prædial tythes are recoverable in the temporal courts; and it is enacted that "no person shall take or carry away any such tythes before he hath justly set out, for the tythe thereof, the tenth part of the same, under pain of forfeiture of treble value of the tythes so taken or carried away." By the 7th and 8th Will. 3rd, ch. 6, a summary method is established for the recovery of small tythes under the value of forty shillings, namely, by complaint to two justices of the peace. And by the 7th and 8th of Will. 3rd, ch. 34, the same remedy is extended to all tythes, great or small, withheld by Quakers, under the value of ten pounds. And by an act of 1 Geo. 1st, stat. 2, ch. 6, sec. 2, the same remedy is extended to all dues or payments to the clergy; such as Easter offerings, &c. One should have thought, that here were remedies enow to have satisfied the utmost greed of avarice; but the gratifying of avarice was evidently not always the object. When the recovery of property is the object, the justices may be applied to, the courts of equity and the temporal courts are open, according to the nature of the case. But when spleen, spite, and inveterate malice, are to be gratified, then the clergy may make their application to the ecclesiastical jurisdiction.—Judge Blackstone, in his Commentaries (vol. 3, ch. 4), says "The statute of 43 Eliz., ch. 6, which gives the judges, in many actions, where the jury assess less damages than forty shillings, a power to certify the same, and abridge the plaintiff of his full costs, was meant to prevent vexation by litigious plaintiffs, who, for purposes of mere oppression, might be inclinable to institute suits in the superior courts, for injuries of a trifling value." Now, if the law has wisely provided against vexation in the case of instituting suits for injuries of a trifling value, it is infinitely more important that the law should provide against a species of vexation far more grievous and oppressive; namely, the imprisoning of men's persons, even for the sake of three pence, or of four pence, or such other trifling sums, which may be so easily recovered under the humane acts of king William or of George 1st. This mode of proceeding to recover tythes, dues, and other spiritual profit: namely, by application to the ecclesiastical court, is highly oppressive to all the laity in the kingdom; and with respect to the Quakers, it is rank cruelty; for, by means of the court spiritual, every Quaker in the kingdom may, as the law stands, be imprisoned for life. And it is the more cruel, for persons so imprisoned are not to be admitted to give bail. Dr. Burn, in his Justice, title Bail, says "He that is certified into the chancery to the bishop, to be excommunicated, and after is taken by force of the King's writ of *excommunicato capiendo*, is not bailable; for in ancient times men were excommunicated but for heinous causes of ecclesiastical cognizance, and not for small or petty causes." It is evidently the extreme of all absurdity, as well as of oppression, to deprive men of their liberty for these "small or petty causes," as Dr. Burn well terms them.—There is one thing wonderfully absurd in the ecclesiastical law; namely, there being one and the same punishment for different offences. By the ecclesiastical law men are forbidden to marry their mothers, grandmothers, or great grandmothers. Now, if any man should offend against that law, his punishment would be excommunication, with all its civil consequences. So that a man's marrying his mother, lying with his grandmother, or committing incest with his great grandmother, is the same offence in the eye of the ecclesiastical law as owing two pence, three pence, or four pence, to any of the ministers of the church.—In conclusion, earl Stanhope remarked, that as neither the act of 27 Henry 8th, ch. 20, nor the spiritual courts were necessary for the easy recovery of tythes, he should present a bill to the House to repeal that act, and to enact that no suit shall hereafter be brought or maintainable in any ecclesiastical court for the recovery of any tythes, dues, or other spiritual profit.

Lord *Kenyon* was of opinion, that the 3rd of July was too late a period of the session to bring in a bill which required the most serious discussion. The noble earl had found fault with the litigations that were frequently caused for small tythes; those small sums, however, were the chief support of the inferior clergy; and to do away the possibility of obtaining those tythes would be depriving several of the clergy of their subsistence. At the same time that the noble earl was complaining of hardships on the community

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from the clergy, he wished him to look to several of the laity; he wished him to recollect the many quit-rents, heriots, &c., which were payable to many of the laity; and he considered that those were as oppressive as tythes. The noble earl had said, that persons were imprisoned for sums as low as one shilling; this he could not consider to be an oppression; for if any were so obstinate as to refuse the payment of legal dues, the laws ought to be enforced; on the payment of those dues, however, the persons imprisoned could be released. He objected to the innovations proposed by the noble earl, and could not think that he had advanced sufficient reasons to warrant the House to aid him in pulling down a fabric which had existed for so many years, and which was the chief support of the clergy. He objected to the principle of the bill, as it went to impower a justice of the peace to decide on tythe causes, with an appeal to the quarter sessions. To leave the right of the clergy in such hands was a regulation not to be borne: it was, in his opinion, very strange, that a proposition should be made to subject the rights of the clergy to the decision of a justice of the peace, without suffering an appeal to any of the higher courts, or to the court of equity: it would be far better at once to abolish all the tythes now allowed, than suffer them to exist under such restrictions.

The Earl of *Abingdon* said, he rose more for the purpose of finding fault with the noble lord himself than with his bill. The bill he consigned to the hands of those who, from the specimen they gave the other day of their abilities—he meant the right reverend prelates—would better know how to manage it than he did; but, of the noble lord himself, he could not help expressing his surprise that he should suffer his religious zeal so far to outstrip his political sagacity. Of the noble lord's goodness of heart and of his talents, no one entertained a higher opinion. He knew the noble lord of old; they were both bred up in the same seminary at Geneva; though their political, any more than their religious tenets, were perhaps not exactly the same. There was no man more devoted to religious toleration than he was, but, at the same time, there was no man whose mind was more firmly made up for preserving the constitution of the country, both in church and state, as it stood, than himself. He would not then enter into any disquisition, whether they ought to be separated or not, as had been maintained; but this he knew, that if they were separated, neither would stand. Whatever imperfections, therefore, were in either, and imperfections there were in both, they ought to be touched with a delicate hand, or not touched at all. And yet, what was the noble lord about? He knew not whether he was a Free-mason or not, not being one himself, but that he was a mason the noble lord had declared; for his lordship had said the other day, "his employment is to carry away rubbish, and if he cannot do it in cart-loads, he will in wheel-barrows; and if he cannot in wheel-barrows, he will by shovels full." He was sorry the noble lord was employed in such dirty work, as he was sure it did not befit his character and dignity; but if it were dirty work only, it would be his lordships affair only; whereas, without the prospect of success in his attempts to do good, he was, perhaps, doing an infinite deal of mischief; for by raking in the legal ashes (and obsolete laws were no more) he might raise up a spark that would burn the whole of our statutes, civil as well as ecclesiastical—good and bad together. If the noble lord wished to be a law-giver and statesman let him act as such; let him move for a committee of both Houses, and let him, after the manner of the great lord Bacon, direct their inquiries towards reformation, as reformation ought to be obtained, by building up and improving, and not by pulling down and destroying. Let not the noble lord point out, as he is now doing, to the incendiaries of this country (and incendiaries there are enow) how to create anarchy and confusion among us. Do the times call for this? Or rather, do not the times forbid this? But on this subject he should, at present, say no more, though he feared the times were coming when he should be forced to speak out more plainly. In the mean time, however, he entreated the noble lord, if he would be a reformer, if he would be an Alexander Cruden, who styled himself the Corrector, and who was so fond of correction that he undertook to correct even the Bible itself, that he would weigh his zeal in the scales of his understanding, and not in the balance of a heated imagination, as from the former good might arise, but from the latter nothing but evil could ensue.

The Duke of *Norfolk* contended against the exercise of the power of the clergy

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to excommunicate for civil causes. That power, he said, caused to serious persons much uneasiness of mind, and to those of a contrary turn it increased their ridicule of all religions. If any of the right reverend bench would signify their intention of bringing in a bill to regulate and amend the tythe laws, or were anxious for the abolition of the power of excommunication in civil causes, he should gladly withdraw his support to the bill.

On the question being put, it was negatived. The bill was then rejected.

Debate in the Commons on the Bill for the Reform of the Royal Burghs in Scotland.] July 6. On the motion that the bill for the reform of the royal burghs of Scotland be committed,

Sir *James Johnstone* said, that as the reform offered by the present bill was by no means wanted, he should object to its commitment. There were grievances in Scotland, but the constitutions of the royal burghs were not among the number. They had no militia, nor any trial by jury. If a man committed high treason, he must be tried by the Scotch laws, which were different, in several essential respects, from those of England. Another circumstance was with regard to the qualification of a justice of peace; in England, a justice must have a certain qualification; in Scotland, none was necessary; so that if a justice in England committed an innocent man to prison, he could obtain a remedy; in Scotland, no remedy could be procured. He agreed that every man who received money from the public, should be accountable for that money, and was willing to consent to that part of the bill. He spoke of the endless system of litigation under the Scotch laws, and mentioned a case which had been heard nine times over, and determined by the court of session; and after the ninth determination, an appeal was brought before the House of Lords, which they reversed. Thus it followed, that few persons were likely to outlive their lawsuits, unless at the commencement of their litigations, they were in a state of vigorous health.

Mr. *Sheridan* hoped the hon. baronet would suffer the bill to go to a committee, where alone he could be satisfied by proof, that grievances which he conceived to be imaginary did exist, and called loudly for redress. Before he entered on the bill he would say a few words respecting the petitioners, and the manner in which they had proceeded. The business had been taken up four years ago, by persons of the first respectability in the different boroughs, and had been conducted since that time with peculiar temper and perseverance. They had corresponded; they had met and consulted on the most constitutional mode of applying for redress; they had resorted to no improper or inflammatory means. This, surely, was not the conduct of men who were enemies to good government. Of fifty-six boroughs, fifty two had concurred in the application to parliament. Their petition signed by 9000 persons, certainly proved that they complained, and they wished only for an opportunity of substantiating their complaints. The first object of the bill was, to provide a remedy for the want of a judicature before which the magistrates could be compelled to produce their accounts; the second, to prevent the magistrates from electing their own body, one set at present choosing in another in regular succession. The consequence of this abuse was a waste of public money, an oppressive exercise of usurped power, arbitrary impositions arbitrarily levied by imprisonment and other penalties. These were natural consequences. Whenever there was power without responsibility, there would be abuse. This was the ordinary course of things, and he wished it not to be otherwise, but to stand as an important lesson to mankind, not to grant power, without establishing the means of punishing the misuse of it. On this obvious principle, the abuses in the internal government of the Scots burghs were easily traced to their source—the perpetuity of the same junto of magistrates, and the burgesses having no means of redress or control. Forty of the charters, copies of which were before the House, contained clauses favourable to the rights of the burgesses, and only five to the assumed rights of the magistrates; therefore no innovation was proposed. The charter of Stirling had been new modelled by Mr. Dundas, in the manner which he conceived to be the most advantageous. The plan established for Stirling was nearly the same with that now proposed for the other boroughs, and what the right hon. gentleman had thought good for one, he must, if he acted consistently, approve of for the whole. He was ready to make out as strong a case, and to prove abuses as flagrant as had been the ground of reforming the burgh of Stirling. The hon. baronet had admitted,

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that the magistrates ought to account for the public money; yet there was no judicature before which they could be called to account; neither by the court of session, the exchequer, nor the convention of delegates. The latter, indeed, would be a very imperfect remedy, if it existed; for, it was not to be supposed that those who were in the practice of abuse themselves, would be very ready to pronounce against those who were accused of the same. To prove that the exchequer had no jurisdiction, Mr. Sheridan read an opinion of the court, solemnly disclaiming it on a case brought before them; and declared, that he was ready to join issue with those gentlemen who opposed the bill, on the single point, that no competent judicature of that effect existed in Scotland. Gentlemen might make themselves masters of the subject, by reading the publications, which were written in a very able manner, on the part of the reformers.

Mr. *Dundas* said, that the hon. gentleman who had taken upon himself the task of reforming the royal burghs of Scotland, had lately urged the impropriety of bringing forward business of importance at so late a period of the session. On this ground, he took it for granted, that he was not serious in the proposition he had submitted to the House, and that the grievances complained of were not of such an important nature, as to claim much of the attention of parliament. It was not a little remarkable, that though there appeared, occasionally, a considerable difference of political opinion among those gentlemen who represented the northern part of the kingdom, yet, none of them could be found to espouse the cause of reform; but, forgetting the animosities of party, they had confederated for the purpose of oppressing the poor burgesses of Scotland. The hon. gentleman had therefore been selected as the champion who was to rescue them from the oppressions under which they had so long laboured; but, as he could not acquire his knowledge of the subject from local acquaintance with the country, a long catalogue of their supposed grievances had been published for the hon. gentleman's information; and he now came forward with one simple proposition, the object of which was, to overturn the whole constitution of the royal burghs of Scotland, established for four hundred years. The petition for the redress of their grievances, it was said, had been signed by 9000 persons; this was a very small number, when compared with the alleged magnitude of their complaints. It was no difficult matter to procure signatures for any petition; and had the hon. gentleman brought in a bill to give the people a power of electing the king, or the lord chancellor, he would have followers of some description or other. The royal burghs were originally created by charters from the Crown; it was therefore a bold infringement of the prerogative to bring in a bill for the purpose of annulling them all, without even the ceremony of appointing a committee to examine whether the grievances complained of had any existence. Exclusive, also, of the authority they derived from the Crown, the constitution of the burghs of Scotland could not be altered, without an infringement of the articles of the Union, which expressly provided for their security. The case of the burgh of Stirling was no argument in favour of the bill, because it had been disfranchised and its charter forfeited, on account of a series of mal-practices, which had long existed in that corporation. It was true that, by the advice of the crown lawyers of Scotland, the constitution of that burgh had been newly modelled; but he believed it was attended with no kind of advantage to the inhabitants. But, what was the remedy proposed by the hon. gentleman for reforming all these abuses? It was by annulling all the old charters, that the magistrates might be chosen annually by a poll election. A general election in this country was never considered as a corrector of the morals of the people, but that was a species of dissipation which occurred but once in seven years. The bill for the reform of the royal burghs, provides for that scene of riot and drunkenness annually, and therefore the hon. gentleman should have intituled it "A bill for the encouragement of debauchery." But, the fact was, that the hon. gentleman had, without much investigation, taken up the cause of the reformers as one which was likely to extend his popularity; he might, however, assure himself, that he would find no statues erected in honour of him in any of the burghs of Scotland. With regard to what had been said on the subject of their accounts, it was perfectly competent to the king's advocate to prosecute every burgher, upon any charge of misapplication of the revenue. The annual convention of the dele-

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gates were as much the representatives of the burghs, as the House of Commons were the representatives of their constituents, and it was one of the express purposes of that institution to rectify every species of abuse which might prevail in any individual burgh; it was, therefore, absurd to say, that there was no tribunal competent to redress the grievances complained of. In alluding to some letters in favour of the bill, which had been published in Scotland, under the signature of one Zeno, he said, it was there stated, that it would form an essential point of the parliamentary reform, which then was in agitation; but, the advocates of the measure now disclaimed the idea, and argued that it had not the most distant connexion with the reform of parliament.

Mr. *Anstruther* opposed the bill, and asked, why the hon. gentleman had not brought in a bill to cut up by the roots the rights of England, as well as those of Scotland, since one depended on the other.

Sir *Joseph Mawbey* supported the bill. With regard to not going into a committee to find the grievances first, he asked, when the chancellor of the exchequer moved for a reform of the rotten boroughs, was there any committee to discover those grievances? No. The grievances were self-evident. With regard to the act of union, no improvement of any kind could ever be made with respect to Scotland, if that act was to stand in its way. The supreme legislature had a right to adopt any alteration in favour of the subject that it thought fit, in spite of any existing law.

Mr. *Sheridan* said, that every argument of the bill had been completely misrepresented. As to his motives, he wished gentlemen would have the fairness to attribute those motives to gentlemen, which they themselves avowed to be their motives. He was neither anxious to have a statue erected in honour of him, nor did he wish to obtain popularity by the bill; he acted from no such principle, but whenever he saw oppression practised in any part of the country, he should, without minding the consequences, attempt to do it away; and he thought the right hon. gentleman, who might be considered as the minister for Scotland, would better deserve a statue, if instead of managing election jobs by his personal interest in the north, he had endeavoured to procure for his countrymen the right of free election. With regard to the right hon. gentleman's talking of one Zeno having written pamphlets in favour of a parliamentary reform, why did he not state the whole, and as well as one Zeno, declare that one William Pitt, and one duke of Richmond, were likewise so mad-headed as to profess themselves friends to that proposition? With regard to his intention of altering the charters, he only wished to make the constitutions of the royal burghs what they were meant to be by the charters originally. If the hon. gentleman, when he had been canvassing lately in Scotland, had inquired of the people of Stirling, he would have found, that the burgh had prospered under their new constitution; what he wanted, therefore, was, to communicate some of that prosperity to the other burghs. If the right hon. gentleman had rather have a previous committee moved for, he would drop the bill for the present session, and forthwith move for such a committee, when he was confident there was scarcely one burgh in which he could not prove that the grievances he had stated existed.

The motion for committing the bill was negatived.

Corn Regulation Bill.] Mr. *Pulteney* rose to mention the report in circulation relative to the great scarcity of corn at present in France, and of an application which had, in consequence, been made to government for a supply from this country. He hinted at the serious nature of such a transaction, and wished to know what steps government had taken respecting it.

Mr. *Pitt* said, that it was needless to remind the House, that nothing could be done by his majesty's servants on the subject alluded to, without an application to parliament for their sanction. It was true, that word had been sent from the French court, stating, that it would be an essential convenience to them, if, under the present great scarcity of corn in France, liberty could be granted to export from England a certain quantity of corn, which did not appear to be inconsiderable. The very great distress of the neighbouring kingdom and our different situation considered, the application did not appear to be an unfit one to be complied with, and were it possible to foresee the extent of the inconvenience that would be incurred by so doing, perhaps, it would still be right to do so; but it

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was a matter of peculiar delicacy, and could not be decided without due inquiry. His majesty's servants had instituted an examination before a committee of the privy council, into the present price of corn in the market, the stock in hand, and the prospect of the harvest. From an extraordinary continuance of bad weather, the prospect of the harvest was extremely precarious; and government had not sufficiently digested the result of their inquiries to be able to come forward with any proposition on the subject to the House. If the House were desirous of seeing the progress made in the examination in question, he should have no objection to laying the papers before the House.

Mr. *Wilberforce* said, it was doubtless necessary for the right hon. gentleman, as minister, to act in so delicate a particular with the utmost caution, and he might be justified in refusing what that House might take upon itself to do at once. The extreme scarcity of corn in France, and the state of perturbation in which that kingdom was well known to be at present, inclined him, and he should imagine, would incline the House, to grant every relief to that distressed country that could be afforded, without the risk of serious danger at home. If means could be taken to ascertain that this country would not be exposed to any very material inconvenience by so doing, he apprehended the people of England would have generosity enough to assist France on the present urgent occasion, and would even submit themselves to the slight inconvenience of a small increase of price, rather than not afford the neighbouring kingdom relief. They were not, in his mind, under such pressing circumstances, to act merely on what might be deemed the eligibility of the measure, but to show that the extent of the distress of France made them willing to assist her, even at the expense of some inconvenience. It would be a deed of charity and benevolence which her distress claimed at our hands, and therefore he should conceive, the best way would be to lay the papers on the table, and if a farther inquiry should appear to be necessary, the House ought to enter upon it without delay.

Mr. Alderman *Watson* was persuaded this country would not deny a neighbouring nation any relief in their power to afford, without seriously inconveniencing themselves. He mentioned the high prices of wheat at market, where it had, that very day, risen seven shillings the bushel. If the necessity was so pressing as it had been described, in the name of humanity, let 20,000 sacks of flour be given to France; but he disliked the idea of exporting flour to sell to them.

Mr. *Dempster* was for relieving France in this hour of her distress; 20,000 sacks of flour could not injure this country, but might materially serve the other.

Mr. *Drake* said, that he had, on a former occasion, resisted a bill for allowing the exportation of hay to France, on the old maxim, that charity begins at home; on the same principle, under the present appearance of things, he was inclined to resist the application for 20,000 sacks of flour. He was willing to show favour to France, if it could be done without risk; and that, not merely from a wish to allay the ferment of France, but in gratitude for her having participated in our late joy, and shown the most indubitable marks of attachment and respect for the King of this country. He considered France at present as expiating her sins, for her interference with America.

Major *Scott* wished to give France the relief required, not only on the general principle of humanity, but as a return for her very strenuous exertions to procure more merciful treatment, and the liberty of a number of British officers and soldiers who had been suffering the most unheard-of severities, under the tyranny and oppression of Tippoo Sultan.

Mr. *Orde* lamented that the subject had come under discussion in that House, since it might lead to very great inconvenience. While the papers were lying upon the table, the price of corn would get up so as to produce all the effects of a scarcity at home. He wished Mr. Pitt had taken upon himself to do what to government should appear proper to have been done, and had come afterwards to parliament for a bill of indemnity.

The *Speaker* said, that the extreme importance of the subject superseded all form, and prevented him from interfering in a conversation which was certainly disorderly. He rose, therefore, to make his apology for having suffered the conversation to go on, but he felt it to be so interesting that he could not prevail upon himself to put a stop to it.

Mr. *Pitt* said, it was impossible while that House was sitting for government to

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act without the advice of parliament. The price of corn was at present so high, that the ports were shut; and from all he knew of the degree of distress in France and the state of corn in England, he was not prepared to come forward with any proposition to that House. With regard to the discussion being likely to produce inconvenience, if it had been thought proper to pass a bill upon the occasion, the subject must have first been opened to the House, and the grounds of the bill publicly explained. The inconvenience, therefore, that was so much dreaded now would not have been less in that case.

Sir *Grey Cooper* said, that in his first speech the chancellor of the exchequer had said, it would be a matter of convenience to France if leave were given to export 20,000 sacks of flour, and in what he had just said he mentioned the pressure of distress in France, which was undoubtedly a different thing. He could willingly have trusted the whole business to government. If the pressure of the distress was very great, and we could afford to do it, every person must wish that we should grant the relief required, but, perhaps, it would have been better if the discussion had not taken place in that House, as it might tend to raise the price of wheat in the market.

Mr. *Windham* was sorry the discussion had been brought on. He reasoned on the motives that had prevented government from acting upon their own discretion in the present case, and said it must either be imputable to their consciousness of the jealousy of parliament, or from ministers being unwilling to take the responsibility on themselves. He declared he should have been inclined to have reposed confidence in their discretion. The best acts that ministers did were often those that required an indemnity, and drew on them much public clamour; and it was not the practice of the right hon. gentleman's politics to shrink from an inconvenience of that nature. His reason for wishing ministers to have acted upon their discretion, was a fear that the passing an act would exceed the occasion, and that great inconvenience might arise from the discussion; whereas, had ministers acted as the nature of the case appeared to them to require, they would have prevented both these evils, and the ill consequence that would arise from delay.

July 19. Mr. *Pitt* observed, that probably on the ensuing Monday, he should trouble the House with a motion relative to the exportation of corn. He had just received information, that at a port on the coast of Sussex (New Shoreham), the price of corn had fallen suddenly from 48*s.* to 44*s.* so that they could export it with the bounty: that, in consequence, 8000 sacks of flour had been shipped for Havre de Grace. He had been made acquainted with the circumstance by a custom-house officer on the spot, who very properly sent the intelligence to him as soon as possible, and he had received it but a short time before he came down to the House. The officer had informed him, that the entry had been made in the name of a cornfactor of London, and as it appeared that corn still kept up to the high price of 48*s.* in every other place in the neighbourhood, and as the quantity sold at 44*s.* in order to justify the exportation, was exceedingly small, there was every reason to think the sale fictitious, and the whole transaction fraudulent. It might be necessary, therefore, to pass a short bill upon the occasion; but he had thought it advisable to wait till Monday to consider of what was proper to be done. He had taken upon himself to write to the officer to stop the intended exportation.

July 13. The House having resolved itself into a committee to consider of the laws relating to the importation and exportation of corn and grain,

Mr. Secretary *Grenville* rose, in the absence of his right hon. friend (Mr. Pitt) to state, that upon consideration of the matter lately mentioned to the House relative to the exportation of corn, it was thought necessary that some parliamentary measure should take place. The occasion would, at any other period, have justified government in presuming to stop any attempt at exportation; but as the two Houses were sitting, it was deemed worthy the interference of parliament itself. It was conceived to be improper, on general principles, to make different regulations in different acts of parliament; and therfore, as there was a corn bill in the House of Lords, the best mode to be adopted, he believed, would be to reject that bill, and bring in a new one, which should include a clause providing for the particular case in question. Understanding that the corn bill then pending in the House of Lords

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would be put a stop to, he would move for leave to bring in a new one, under a title a little varied for the sake of form, and he begged to assure gentlemen that in the new bill the principle and clauses of the bill which had passed that House would be retained entire and without alteration. He concluded with moving, "That leave be given to bring in a bill for better regulating and ascertaining the importation and exportation of corn and grain, and also for better regulating the exportation of starch, and the importation of rape seed."—Agreed to.

Debate in the Commons on the Bill for transferring the Tobacco Duties from the Customs to the Excise.] July 15. The report of the committee upon this bill having been brought up and agreed to,

Sir *Watkin Lewes* said, that agreeably to his notice, he should now beg leave to introduce a clause declaring "that persons aggrieved by a determination of the commissioners of excise, or justices of the peace, may bring an action of trespass against such commissioners or justices, in which action the condemnation or conviction shall not be pleaded in bar, or in abatement, or given in evidence on the trial of such action, but that such action shall be tried as if no such condemnation or conviction had been made." This was an act of justice due to the persons aggrieved, and such a relief, that he trusted the House would think proper and just. This clause was free from the objections taken to a motion made by an hon. gentleman for leave to bring in a bill to give a right of trial by jury in all cases of excise, it being confined to the single article of tobacco. He could not conceive that it would injure the revenue, as very few, unless much aggrieved, would wish, for the mere purpose of delay, for an appeal which must be attended with further expense to them; but should the determination of the commissioners be unjust, what member would rise in his place to say, that the unjust determination should be enforced, the subject be deprived of his property, and, in many cases, of his liberty? All those persons dealing in exciseable commodities were deprived of their birthright, which was secured to them by Magna Charta. The trial by jury had always been considered as the palladium of that liberty for which this country had long been the envy of foreign nations. Mr. Justice Blackstone, in treating on the laws of excise, says, that "the rigour and arbitrary proceedings of excise laws, seem hardly compatible with the temper of a free nation. The power given to officers of entering and searching the houses of such as deal in exciseable commodities, at any hour of the day, and, in many cases, even in the night; the proceedings, in case of transgressions, are so summary and sudden that a man may be convicted in two days in the penalty of many thousand pounds, by two commissioners or justices of the peace, to the total exclusion of the trial by jury, and disregard of the common law." After enumerating the different articles, he closes with this extremely striking observation: "A list, which no friend to his country would wish to see extended!" Sir Watkin added, that in submitting this clause to the consideration of the House, he must earnestly entreat them, before they determined on it, to weigh it deliberately. It would do away great part of the odium on excise laws, and he trusted it would lay the foundation of a general bill, extending to all cases of excise whatever. He was sure, if the clause were admitted, that juries would prove themselves worthy of confidence, and that the House would hear much fewer complaints of the oppression of revenue officers; the subject would be restored to his birth-right, his liberty and property preserved, and the public revenue secured.

Mr. Alderman *Newnham* seconded the motion. The clause, he said, by saving to those concerned in the tobacco manufacture the right of trial by jury, would soften the rigour of the excise laws, without injury to the revenue.

The Marquis of *Graham* said, that although he was a great friend to the trial by jury, he could not think that the giving that right ought to be introduced in the present bill, as that would be a partial grant of it, neither fair, reasonable, nor just. It ought to be given to all persons subject to the operation of the excise laws, or to none. It was generally considered, that tobacco was an article as proper for the operation of excise as any other; and therefore, the manufacturers of every other article which was placed under the excise, were entitled to the same privileges as the tobacco manufacturers. Whenever, therefore, the worthy alderman should introduce a general bill to restore all manufacturers and traders subject to the excise laws, to the right of trial by

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jury, he would certainly consider it with all due attention, but he thought it incumbent on him to oppose the present clause.

Mr. *Hussey* recollected that when a bill, such as the noble marquis alluded to, had been moved for, he had thought the argument of the hon. mover so sound, that he had intended to vote for it, hoping thereby to have restored all persons under the excise laws to the right of trial by jury; but that the attorney-general had stated an argument against it, which he had thought a good one, and which decided him to vote against the proposition; and that was, that if such a law passed, it would multiply trials by jury so much, that the business of Westminster-hall could not proceed. * He saw not, however, that the same reason held against the trying of the experiment in the single case to which the bill alluded.

Mr. *Rose* contended, that if the trial by jury were allowed in the present instance, it would put it in the power of the tobacco manufacturers, in fraudulent cases, to impede the execution of the law, almost as much as it would if the trial by jury were to take place in all excise cases. There had been no reasons urged in favour of the manufacturers of tobacco and snuff, which might not, with equal justice, be urged by all other trades under the excise. If any method of mitigating the severity in this instance could be suggested, he should gladly meet it with his concurrence.

Captain *Berkeley* said, he came to the House determined to vote for the clause, but the hon. gentleman who spoke last but one, had argued with such truth and justice on the general principle of the clause, that he should certainly vote against it.

Mr. *Samuel Smith* said, it struck him as an extraordinary argument, that taking away the trial by jury would prevent the court of exchequer from being impeded. Did gentlemen consider the extent of such an argument? At that rate every description of subjects might be deprived of the right of trial by jury. Persons going to court knowing that the king paid no costs, and how unequal all contests with the Crown were, would not run to the exchequer with frivolous suits, or where they did not think that they stood on the strong ground of a good cause. He could not, therefore, see the smallest inconvenience which was likely to result from the clause being accepted.

Colonel *Phipps* said, that the argument of the hon. gentleman behind him was the strongest in behalf of summary decisions in all subjects of excise. It saved the defendants much expense, and it enabled them to state all their grievances at once fully and fairly. He believed the summary processes were administered with as much justice as any species of process whatever. Was liberty more circumscribed or extended now than in sir Robert Walpole's time? He supposed rather the latter than the former. As to extending the right of trial by jury in this particular instance, if it was extended to all other persons and trades under the excise laws, then there would be some reason to complain of the exclusion of it to the tobacco trade.

Mr. *Beaufoy* said:—If the motion which the hon. gentleman has made had been such as the speech with which he introduced it, had prepared us to expect, I should gladly have given to it my support. But, so different from their professed design are the words of the clause which he has offered, that I must either resist the motion at the risk of appearing to oppose the principles to which I am the most attached, or I shall find myself obliged to acquiesce in such an application of those principles as is very inconsistent with the interests of this kingdom. I imagined from the nature of his arguments (and the House, I believe, still imagines), that the object of the hon. gentleman was nothing more than to give to his fellow-subjects a right to appeal from the despotic tribunal of the commissioners of the excise to the candid and impartial judgment of his peers. But is this the sole tendency of the proposed resolution? Is this the only effect it is calculated to produce? If such be the expectation of the House, it is my duty to warn them of the dangerous mistake; for the privilege which the clause will give to the subject is not a right of regular appeal from the determination of the board of excise, but a right to prosecute, as a trespasser, every exciseman, who, on any ground, however legal, has ventured to make a seizure. It gives to the dishonest tradesman, however atrocious his frauds, a right to bring an action for damages against the officer, who, in the name of the Crown, has taken possession of the articles on which the legal

* See Vol. XXIV, p. 797.

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duties are withheld, and in that action it empowers him to include the officer's assistants, and to make them defendants in the suit. Thus, it enables the importer, and the dishonest manufacturer, to disqualify from being witnesses in the trial, the only persons, generally speaking, who are able and willing to prove the existence of the fraud. It deprives the Crown, in most cases, of its only evidence, and at the same time imposes upon it the burthen of the legal proof. If such a clause were made general, it would bring with it security to the smuggler, ruin to the fair manufacturer and the honourable merchant, and ultimate destruction to the most productive revenues of the state.—But though it is obvious that all these baneful effects would follow from the clause, if applied to the several branches of the excise, yet I am perfectly persuaded that to produce these effects is not the intention of the mover; for it cannot be his wish to cripple every prosecution, to disarm the executive government, to grant a general licence to fraud, and to deprive the nation of a revenue of six millions a year. Those who do me the honour to recollect the bill which I proposed to the consideration of the House in the year 1785,* will not suspect me of indifference to a principle which constitutes the principal support, as well as the primary blessing of an Englishman's freedom, the privilege of being tried by his peers. But while I suggested a plan that would have ensured to him, in all excise cases, in which he might choose to demand it, the perfect enjoyment of this right, that bill had no tendency to destroy, as this clause would effectually do, the powers of the Crown to prosecute. It would have given to the subject a fair trial before an independent court; but his success in that trial would have depended on the justice of his cause; for I could not consent to deprive the Crown of its witnesses, and under a pretence of consulting the interests of freedom, to establish the interests of fraud.—But while I object to the particular motion before you, I am not insensible that the very right which it proposes to bestow (the right to an action of trespass against the seizing officer and all his assistants), has been said to constitute already a part of the law of the land; and that the truth of this opinion has been for many years, and at this moment, continues under the consideration of the judges. But what inference shall we draw from this embarrassment of the judges? Does it show the propriety of the present clause? That cannot be pretended. It only proves, beyond the possibility of a doubt, how sensible the judges are that if, on the one hand, they should establish the right of the subject to an action of trespass, they give impunity to fraud, and that if, on the other, they should deny that right, they must in effect admit (what they cannot bring themselves to acknowledge), that in all excise cases, as the law now stands, the subject may be excluded from a trial by his peers. Their silence proclaims with an energy more forcible than the strongest language; it declares with an emphasis which awakens the reflection, and reaches the heart of every friend to his country, that the subject has a just claim, in all excise cases, to a trial by his peers; but the particular modification of this right ought not to be such as shall deprive the Crown of the benefit of its witnesses, and give security to public depredation. Thus it appears that while the interest of the state requires the rejection of the clause proposed, it also requires that this rejection should be followed by a bill to give to the subject a right of appeal from the arbitrary decisions of the commissioners of excise to the unbiassed judgment of his country.—Nor can I applaud the expedient of confining to the dealers in tobacco, or to any other description of men, a privilege which the constitution has made free to all; but if the liberality of the times is too limited to restore to all their just and natural birthright; if the experiment of giving back to the subject his ancient hereditary privilege must, in the first instance, be tried on one particular class alone; I have no hesitation to say, that the dealers in tobacco have the strongest claim to a preference; for the situation of those who made choice of a particular trade, at a time when no suspicion was entertained of its ever being subjected to the excise, is certainly, in all justice, to be considered as materially different from the situation of such manufacturers as freely chose an occupation to which, at the very time that they chose it, the dominion of the excise laws was already extended. Upon the latter, the jurisdiction of a despotic court is brought by their own voluntary act; upon the former, it is forced by a compulsion, from

* See Vol. XXIV, p. 541.

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which there is no other escape but that of abandoning their country, or of relinquishing their means of life.—But some gentlemen, it seems, there are, who think that the interests of the revenue are incompatible with the civil rights of the subject; and that an appeal from the decision of the commissioners to the judgment of a jury would soon destroy the vigour of the excise, and annihilate the use of the system. I know not to what singular circumstance it is owing, that the system of the excise is supposed to derive its efficacy and strength from the despotic nature of its tribunal; whereas, in reality, it is indebted to that tribunal for nothing but ill-will, discredit, and reproach; for the power and energy, the whole force and entire effect of the excise, are derived from the plan which it adopts in charging and collecting the duties; a plan that has not the smallest necessary connexion with an arbitrary mode of trial, and that owes its success to the wisdom of two specific principles; the first of which is, that the officer shall be empowered to keep an account of the trader's stock, and to prevent, by this expedient, his selling a greater quantity of goods than that for which he has paid the legal demands of government; the other principle is, that this account of stock shall be taken by different officers in succession; that the surveyor shall follow the gauger; that the general surveyor shall examine and be a check upon the accounts of both; and that the mischiefs of a corrupt connexion between the trader and the officer shall be prevented or remedied by a frequent removal of the latter to a new and distant station.—Am I asked for a proof of these assertions? Am I told that in support of an opinion which denies that the energy of the excise code depends on its judicial system, the evidence of strong facts should be produced? My answer is, the proof is easy; for it is founded on two facts, which are perfectly decisive. Of these, the first will show, from actual experience, that when the plan of collection, as already described, is completely applied, the system of arbitrary trial may be abandoned without any inconvenience. The second of the two facts will show, that where the keeping a regular account of stock is not attainable, and where, of course, the plan of collection cannot be applied, the powers of the despotic tribunal have been found to be altogether ineffectual. To prove the first of these points, the perfect sufficiency of the mode of collection in all cases in which the rules of the collection apply, I appeal to the effect of the excise duties in the two great articles of leather and malt; for in all decisions on those duties, by two justices of the peace (who in the country represent the commissioners of the excise) a right of appeal to the judgment of a jury is given by the law; yet I never have seen the shadow of a proof, or heard of the remotest insinuation, that the duties on these articles are less faithfully paid, or less easily collected, than on those which deprive the subject of a trial by his peers. To prove the second of the two points, and show that in those cases in which the officer has no means of keeping a regular account of stock, the despotic jurisdiction of the excise is wholly unable to invigorate the system, I appeal to the effect of the excise duties upon tea; for as in that article the account of stock is baffled by the retail trade, the consequence has been, that as long as the high duties presented the temptation, no branch of the revenue was ever so over-run with fraud; yet the arbitrary tribunal of the commissioners exerted its utmost force, and exhibited a convincing proof, that the uneasiness which the constitutional objections to its existence naturally produce, is not accompanied by the delusive palliative of an increase of income to the state.—To what, then, is it owing, that a connexion, so useless, and every way so impolitic, between a judicious mode of collecting the revenue, and an arbitrary system of trial, has prevailed from the establishment of the excise? It can only be ascribed to the nature of that bargain, not expressed indeed, but perfectly understood, between the King, on the one part, and the parliament on the other, from which, in the reign of Charles 2nd, the statute which established the excise originally arose; for, while by that bargain, a compensation was given to the Crown for the revenue which had arisen from the court of wards and liveries, which court it consented to abolish, an idea seems to have been strangely entertained, that an equivalent was due for loss of power, as well as for defalcation of income, and that, in justice to the King, the abolition of one despotic court ought to be followed by the establishment of another.—On the constitution of the excise tribunal, the

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nature of the evidence, the rapidity with which the notice of trial succeeds the information, and the execution follows the judgment, I shall not comment at present; but, in a future session, I hope an opportunity for the discussion may arise; for, until the right of appeal to the judgment of a jury shall be given, every extension of the excise laws must be considered as a new inroad on the constitution; an inroad that will ultimately prove as injurious to the revenue, as in its immediate effects it is obviously detrimental to the interests of freedom. For in this kingdom, the greatest part of the revenue is collected on the capital which is employed in trade; now, the amount of that capital must depend on the idea entertained of its security; but what idea of security is compatible with a trial, in which the judges are appointed and paid by the prosecutor, are removable at the pleasure of the prosecutor; and in which the evidence for the prosecution is entitled to one half of the penalties and forfeitures that shall result from the conviction of the accused? To a certain extent, the existence of an arbitrary tribunal in a free country may, perhaps, be admitted, without any high degree of practical inconvenience; for the general spirit of the nation limits and counteracts the despotic spirit of the court; but, to subject a large proportion of the whole trade of the kingdom to the jurisdiction of such a tribunal, is to weaken the basis which on the revenue principally rests. It is to remove the stones from the foundation of the column in order to add to its height. To the present motion, for the reasons which I have assigned, I cannot give my support: but if, in a future session a bill shall be offered, to establish, under certain regulations, the right of the subject to appeal from the judgment of the commissioners of excise to the judgment of his peers, I shall gladly applaud the wisdom of the measure, and be happy to contribute whatever I can to its support.

Mr. *Pulteney* could not admit, because there would be a multiplicity of suits, if those under the excise laws were allowed the benefit of trial by jury, that this circumstance should operate as a satisfactory reason for denying the right of trial by jury. If there were not tribunals sufficient, let a new court be instituted. A well-regulated government should be open to the hearing of all the grievances complained of by its subjects, and, knowing the expense of contesting with the Crown, people would not appeal to the court, unless confident they were in the right.

Mr. *Fox* said, that there were persons how had so superstitious a reverence for the revenue, that they would sacrifice every thing for that object. If it were true, that all the rigour of the excise laws was necessary for the protection of the revenue, then the bill as it stood was to be justified, admitting, what he never could agree to, its principle to be right; but, if it were true, that trial by jury could be allowed without injury to the revenue, how could there be a doubt but that it ought at least to be resorted to as an experiment? The tobacco manufacturers not having the excise laws applied to them before, had every claim of justice to the utmost latitude of legislative indulgence. Their case was distinct and different from that of other trades long since subjected to excise laws. If it failed of the wished-for effect, and the excise was defeated of its object, the security of the revenue, and it should be found that the failure was owing to the fraudulent conduct of the manufacturers of tobacco and snuff, then they would only deprive them of their birth-rights, which ought never to be done but in cases of the most urgent necessity. As to the multiplicity of causes, men who thought that they should not get redress, were not likely to apply for justice. But it was a matter which would be brought to a question of fact, and if there should arise a multiplicity of causes, it would, doubtless be at the beginning. As to the question, whether the tobacco manufacturers merited any particular indulgence; undoubtedly, they did not merit any particular indulgence; they did not claim it; but surely, they did not merit any particular hardships. When they talked in that House, day after day, of the birth-rights of Englishmen, for which they had shed their blood, and were ready to shed it again, did they mean nothing but empty sounds? The lateness of the session, the scanty attendances, and the impossibility of his doing any good, had been his reasons hitherto for not troubling the House with any remarks on the subject. The extension of the excise laws was a very important object, and the bringing such a measure forward at that time of the year, when it could not be properly discussed, betrayed a most inexcusable indifference to the rights and liberties of their countrymen.

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The *Attorney General* stated the danger of making any innovation in a system of laws which had continued in force ever since the reign of Charles 2d.

The House divided: Yeas, 16; Noes, 55. The clause was consequently negatived. On the question, thatthe bill with the amendments be engrossed,

Sir *Watkin Lewes* said, that notwithstanding those amendments, he thought the bill inadequate to the purpose proposed. Instead of securing the revenue it would, in the opinion of the most competent judges decrease it. It laid such restrictions upon the fair manufacturer, as tended to drive him out of the country, and by giving the inhabitants of other countries the benefit of the manufacture instead of this, it would lessen the importation of tobacco, which would be consigned to foreign countries, and the commodities of other countries would be taken in exchange, and in preference to those of their own. They were attempting to secure a revenue at the hazard of the trade and welfare of the country. He should therefore oppose the bill.

Mr. *Samuel Smith* referred to the periods at which excise laws had passed, and stated the different circumstances under which the manufacture might be carried on in Holland and at home. In Holland, the manufacturer could derive as much profit from turning a capital of 2000*l.* as he could do here from the employ of a capital of 10,000*l.* He cautioned the House, therefore, against the obvious result of this comparative advantage. Where the difference was so great, how could we expect the British manufacturer to remain at home after he had been subjected to the irksome restrictions of the present bill? Altered as it was, it still disclosed the mysteries of the snuff manufactory, upon which more than gentlemen imagined depended. What, he asked, had hitherto confined the snuff manufactures to this country, but the mystery of mixing the articles of manufacture, so as to give the snuff a flavour, which the foreign manufacturer could not imitate. The instant the bill passed, manufacturers would be tempted by the advantage of carrying on their manufactory at four-fifths less capital, to go abroad and settle on the other side the water; they would carry with them the mystery of scenting and flavouring their snuffs, and the circumstances which had operated hitherto as an insurmountable objection to the sale of foreign manufactured snuffs would no longer avail. Mr. Smith compared tobacco with teas, as an article of smuggling, and asked, if they could, from the nature and circumstances of the case, have made a law against smuggling or selling smuggled teas? As much difficulty, he contended, stood in the way of preventing the smuggling of tobacco. Was there a member who could say that the article would not be smuggled? Let them, therefore, not adopt a measure which would prove ineffectual, but bring in a new bill, which should be more likely to answer the purpose of the revenue without so much inconvenience and oppression to the fair trader.

Mr. *Wigley* objected to the bill, notwithstanding all the improvements it had received in the committees. Whenever a matter of necessity should warrant the extension of the excise laws, he might be brought to approve that extension; but otherwise, he thought those laws ought not to be extended.

Mr. Alderman *Watson* hoped, early in the ensuing session, to see a bill introduced for the purpose of applying the right of trial by jury to all persons subjected to the laws of excise. He declared, that the present was the stage of the bill at which he should make his stand. He admitted, that it was altered much for the better, and that many of the objections to it were done away; but concluded with desiring the House not to flatter themselves that the commerce of the country would wear such fetters as that bill provided, and assuring them, that they were giving up the substance for the shadow.

Mr. *Sheridan* said, he could have wished that the two hon. gentlemen who spoke last, had contented themselves with making their opposition to the bill in the manner they thought best, without obliquely conveying reflections on the conduct of other gentlemen who had acted differently. He had attended to the bill in all its stages, and listened to all the evidence, and perhaps he should give the hon. gentlemen but little information, when he informed them, that the properest time for opposing the principle of a bill, was on the second reading, the time for opposing it in detail was in the committee, the time of opposing both principle and detail was on the report, and that the opposition to the report was the feeblest, excepting to the third reading.

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Mr. *H. Thornton* said, that the observations of the hon. gentleman applied, perhaps, as much to the right hon. gentleman who sat next him (Mr. Fox) as to any other person in the House. For his own part, being an enemy to this bill, he had often lamented that the right hon. gentleman and his friends had not come down to the House upon so popular, as well as proper, an occasion; but had delayed their opposition so long, that there was now no hope of its being effectual. The hon. gentleman had complained, that no notice had been taken of the bill on the day of its being first opened to the House. He believed he informed the hon. gentleman upon this point: the members for the metropolis and its neighbourhood were all absent, except himself, at the commemoration of the repeal of the shop tax, and he had also been under a considerable dilemma, whether to obey the request of some of his constituents, who called his attention to the tobacco bill, or the request of others, who invited him at the same time, to the commemoration. The principle upon which he opposed the bill was not exactly the same as had hitherto been urged in the House. The manufacturers, the counsel, and other gentlemen who followed them, had, in his idea, rested their objections too much on the difficulties to which the manufacturers would be put, by being subject to the excise laws. This was an objection of some weight, certainly, but not sufficient to overthrow the bill; and indeed it was now proved to be but a weak ground of argument, since much of their objection was actually removed by the amendments made in the committee. His own great objection to the bill was this, that it was a violent and vain attempt to obtain a revenue of 400 or 500 per cent. from an article which could not possibly be made to yield it; and he could not help fearing, that while we were thus grasping at revenue, we might lose the manufacture itself. The evidence of several persons at the bar proved that there was a real danger of this sort. He hoped however, that government would be watchful upon this point, and, in case the bill should fail of its effect, that they would come forward and propose a reduction of the duty. As to the popular argument of excise, he did not consider this as conclusive upon the subject, because, if the excise was more necessary in the case of tobacco, than in other cases to which it was already applied, he thought it possible even to take some other articles out of the excise system, and, if necessary, to substitute tobacco in the place. The article of tea, which was still under the excise, might, perhaps, be allowed to be taken out. His chief objection was the inefficiency of the bill, and the application of the excise laws, without sufficient reason to justify it: he had voted often in the committee, contrary to many persons whom he now joined in opposing the bill, because he wished to give it every fair chance of success, by making it as efficient and as good a bill as possible, but he could not help fearing that it would be found to fail of its effect.

Mr. *Fox* said, that the hon. gentleman had talked of the best mode of opposing a measure; but, for his part, he thought it was the duty of every man to oppose what he thought fit to be opposed, in the manner in which he conceived his opposition could be most effectually applied. He did not wonder at what his hon. friend (Mr. Sheridan) had said, when the hon. gentleman behind him had declared that they took their stand there, and did not approve of harassing the bill, by hanging on it perpetually, not deeming it liberal to oppose a measure in every stage. There certainly was a degree of oblique censure on the conduct of other gentlemen conveyed in such observations. Perhaps, like himself, some of the gentlemen, Mr. Fox said, had not attended much to the business. He had not, he owned; because from the sort of manner in which the first mention of the bill had been received, he saw clearly that little effectual opposition could be made against it. He agreed, notwithstanding, that every man should attend to the business throughout, whenever there was a prospect of its being crowned with success, and when there was a probability of such being the effect, perhaps harassing a measure by continued opposition in every stage of it, was the most likely way of putting an end to and defeating a bad measure. If the measure did not prove either bad, or so bad as to call for determined opposition, such a mode of opposing it was certainly not necessary. There was another point which called for observation, and that was, what the hon. gentleman who spoke last had said of the meeting in commemoration of the repeal of the shop tax. He did not expect that that hon. gentleman, of all men, would

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have attempted to ridicule the repeal of the shop tax, because the hon. gentleman had more than once professed himself to be a sincere well-wisher to that measure. Perseverance, the hon. gentleman had said, would accomplish great things, and the strength and effect of perseverance was never more fully seen than on that occasion. The repeal of the shop tax was a fit subject of commemoration, because it was the triumph of reason and just argument over ignorance and obstinacy. It was also worthy of commemoration, inasmuch as it proved to that House, that a blind confidence ought not always to be placed in ministers, since the proposers of the shop tax had been at length obliged to confess, that the reasons assigned for the propriety of its repeal were founded in truth, and that the grounds on which the proposers of it had maintained and defended it, were erroneous and delusive.

With regard to the popular act of opposing the present bill, which the hon. gentleman who spoke last had sarcastically imputed as the cause of his attendance that day, Mr. Fox denied that his attendance was occasioned by any desire of seizing on that opportunity of retaining popularity. In fact, if any such weak and idle motive could influence his public conduct, on any occasion, that was an unseasonable moment for its exercise; because, so far from opposition to the measure being popular, he had every reason to believe, that it unfortunately happened that the reverse was the fact, and that the people of this country were so changed in their nature, and so altered in their feelings, that they had become, as it were, enamoured of the collectors of taxes, especially under the excise laws, and that they looked up with eagerness and with gratification, to invite the most wanton exercise of power; and as if nauseated with the sweets of liberty, were anxious to wear the badge of slavery and of despotism.—As to his not having attended the bill more closely, he had already stated, that he had not done so, because he plainly saw, that all opposition would be fruitless; but surely, the hon. gentleman, and other gentlemen of the same description, had no right to expect on every occasion, when the interests of their constituents, or some personal motive to themselves, induced them to wish the measure of the minister opposed, that he, and those who acted with him, would be at their command, and ready to act as perpetual adversaries of the minister and his measures, whether those measures should appear to them to be well or ill-founded! It should seem as if the hon. gentleman, and those who pursued the same general political line of conduct, but who, nevertheless, opposed the present bill, considered opposition as the standing counsel against the Crown in that House, ever to be resorted to in the moments of difficulty, and therefore as necessary to exist as administration. What was this but laughing at them? What was it but saying "We have put you into the most humiliating situation; you shall have no share of the power, no share of the honours, or emoluments of office; but we expect to command your public services, to profit by whatever abilities you may possess, to be joined by you and your friends, whenever we want the assistance of either." Was it not, in other words, saying, "We have raised one man to a degree of power which makes all opposition useless. By our false clamours against you, and our delusions respecting him, we have taught the public to look up to him as something more than man; hence his measures, however mischievous, however fatal, are scarcely to be resisted: but remember, we look to you to watch him. Do you take care that he does no mischief in his situation. It is your office to sound the alarm, when danger lurks beneath a plausible pretext; and to oppose yourselves to the occasion, so that the evil may be in time averted." Having deprived them of the means of resistance with any hopes of success, by putting them into so useless a situation, to call upon them to oppose, to check and to stop the minister's measures, was neither more nor less than directly laughing in their faces, and adding insult to injury.

Mr. Fox declared, that he was one who differed much from an hon. alderman behind him, who had said that he thought that this bill was following former examples. Under no administration had the excise been extended in the manner that it had been under the present. He had seen the fustian manufacture attempted to be put under the excise, but he thanked Heaven that the attempt had proved abortive. When he saw the wines put under the excise, he had then opposed it, because he would oppose every extension of the excise laws, being convinced that

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they were a system of laws under which no freeman ought to live, as they were utterly incompatible with a free constitution. The excise upon wines had been said to have proved successful: if they had proved ever so successful, still he should retain his opinion against that measure. But he did not admit that the scheme respecting wines had been fairly tried, or that its apparent success was imputable to the articles being under excise laws. The French commercial treaty had taken place soon after the wines were put under the excise laws, and the increase of the consumption of wines, and the wine duty revenue, might as properly be ascribed to the effects of the commercial treaty, as to the effects of the application of excise laws to the article. But his objections were founded in other notions than a mere view of the revenue. He was aware that, with some men, an increase of revenue outweighed every other consideration. He thought far differently; it was the probable success of the application of the excise laws to tobacco which he deprecated, because he considered a farther extension of those laws, as an additional symptom that, by degrees, all our trade would be subjected to the excise laws, and our liberties and our constitution, hitherto regarded as inestimable, and boasted of repeatedly as beyond all price, would fall a sacrifice to revenue.—However old fashioned the idea might be, he gloried in saying, that if the excise on tobacco would bring in half a million a year, he would oppose it. It was the principle of extension of the excise laws which he resisted; and in doing so, he considered the increase of revenue as no object. He declared that he rather took the opportunity of saying this, because it might be objected against him, that, as he, the other day, had contended, that our revenues fell short of our expenditure, and that means for their increase ought to be resorted to, he of all men ought not to oppose the present bill, which was one of those means which, in the consideration of the present ministers, was deemed most likely to prove effectual. He did, nevertheless, resist the bill, because he considered the extension of the excise laws as undermining the foundation of our constitution with a view to raise the superstructure, which would be a sacrifice that no friend to his country ought to consent to make. But so far from this bill answering its end and producing a large increase of revenue, he had heard persons, who might be supposed best to know the subject, say that the bill would produce a contrary effect, and that the trade would fall in consequence. He reasoned upon the dangerous effect of thus extending the excise laws and contended, that it manifested a forgetfulness of those blessings, which it was so much our habit to boast of as an enjoyment beyond the reach of most other nations. It seemed as if liberty and a free constitution were merely talked of and not felt; as if they were words only fit to decorate a speech in parliament—a beautiful theory, but no longer compatible with practice, or fit for enjoyment. It was the more wonderful that this apathy to a sense of our own advantages should take place at a period when this country was enlightened almost beyond all other nations, when it was distinguished, not only for the extension of science, not only for the spreading of literature, not only for the success and improvement of the fine arts, not only for its superior advances in history, philosophy, and universal toleration, but for all that was great and glorious, useful and ornamental in man. That, at such a moment, we should be so blind to our own advantage, so madly bent on sacrificing the solid and substantial blessings we enjoyed, was most astonishing; but nothing could be more certain, than that if we went on extending the excise laws in the manner we had lately done, it would be a preference of revenue to the constitution of the country.

When this country ceased to be free, the people would cease to be industrious, and consequently cease to be wealthy, and when the nation ceased to be wealthy, it would cease to be powerful. The real source of revenue was, he contended, the riches of the people; but if the excise laws were made general, all opportunity of acquiring wealth would be at an end. The first attempt at the introduction of the excise laws had been made in the time of sir Robert Walpole's administration. Sir Robert Walpole, he thought, had been treated with less respect than he deserved; but it was much easier to load the memory of a dead minister with calumny than to traduce a living minister. Sir Robert Walpole, all circumstances considered, and allowing for the foibles to which all mankind were liable, had, in his opinion, been a wise minister for this

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country. In his time, the debt of this country had increased to a size alarming to the politicians of that day. The general language was, that the minister ought to resort to means of increasing the revenue. Sir Robert Walpole had listened to the advice of those about him, and had proposed an excise scheme to that House. The consequences were well known, and it was a proof of sir Robert Walpole's wisdom that he had relinquished the scheme. The next excise heard of, was in the administration of the earl of Bute. At that time, an attempt was made to carry an excise on cyder; but it was clamorously resisted. There had been a distinction taken, and it was said, exciising cyder was bringing the excise into a private gentleman's house, whereas an excise on a particular trade was very different. Mr. Fox declared that he saw no force in the distinction. If excise was inadmissible in the one instance, it was not less so in the other. The shop of the trader was as much his castle as the dwelling of the private gentleman. He was not one of those who thought none useful but such as, by arts and arms, by their military services by sea and land, and by commerce and manufactures, conduced to the public wealth and revenue; the country gentlemen, or, in fact, the true nobility of the kingdom were useful likewise; but he could perceive no reason why those who of necessity were deprived of the trial by jury, that glorious mode of trial which they ceased not every day to praise, while they were daily taking it away—he meant the navy and army—and those employed in manufacture and trade, should be excluded the benefit of a trial by jury and the enjoyment of that benefit be left solely to the country gentlemen and the idle. The prosperity of this country and its wealth and commerce depended on its constitution and its freedom, and to confine liberty to the enjoyment of those who were comparatively idle, was unjust, absurd, and preposterous. They had no fair grounds whereby to calculate the probable produce of the scheme of applying the excise laws to tobacco. Might not the truth be, that tobacco being such a good article for taxation, as he confessed it was, had been pushed too far, and taxed beyond what it could bear? All evils were softened by our being habituated to them: and if excise laws were suffered tamely to be applied to one trade, they would soon be applied to another. He ascribed this to the apathy of the people in general, when the excise laws were applied in any one instance. The tobacco manufacturers, when they entered upon the trade, little expected this measure; and, perhaps, from the encouragement given in sir Robert Walpole's time, they thought tobacco the last article which would be put under the excise. Other traders, who possibly were at present as little aware, or in expectation of being subjected to the excise laws, would, he had no doubt, be soon called upon to stand in a similar situation. He asked, if there was any man acquainted with the freedom of the constitution, who did not think the excise laws more harsh and oppressive than could be borne? He declared, therefore, that he came down that day, not so much with any great hope of successfully opposing the bill, as with a view to state his opinions on the subject, and to enter his general protest against a scheme, which he completely disapproved. If, in a country where every trade could see its own danger by what happened to another, they did not feel it as a common cause, and join in resistance whenever the excise laws were attempted against any one article of manufacture, they gave but bad symptoms of their hearts, or their understandings. If the tobacconist, when he saw the wine merchant taxed, and put under excise laws, stood by and said to himself, "Let the excise go to the wine merchant so that I am free," he acted foolishly, and scarcely deserved to be assisted, when the case should become his own. The wine merchant, in like manner, might say the same of the tobacconist and of the country gentleman, whereas it was now proved, that the oppression of the excise laws would fall upon both. Those who would not assist others, must not expect to be assisted themselves in the hour of danger.

Mr. Fox expatiated on the preference due to regulations in regard to old taxes, rather than to new taxes, which latter all feared, because they knew not on whom they would fall; but the present regulation, he continued, would not answer, and when he said so, he declared it to be his belief, not originating in any wish for popularity. The bill seemed little to interest the public in general, and if parliament would not attend their duty, and if they who were most interested in the subject had abandoned it, he saw no

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prospect of stemming the tide, and recalling them to a due sense of their own interest; but, standing, as we did, the first country for literature, for science, and for all which could improve and adorn mankind, that the sources of those enjoyments should be so forgotten must mortify every man who admired the freedom of our constitution, and the equality of our laws.

Mr. Secretary *Grenville* said, he did not intend to say one word in reply to the attack which the right hon. gentleman had thought proper to make on his right hon. friend in his absence. The abilities of his right hon. friend, the high opinion which the public at large entertained of him, and the occasions on which he had distinguished himself as a sincere friend to the liberties of the people and the true principles of the constitution, were too deeply impressed on that House to make it necessary for him to advance one word on that topic. He should conceive that the right hon. gentleman felt already that the attack was ill applied at that time. The right hon. gentleman began with praising the repeal of the shop tax; he had then made a personal attack upon his right hon. friend; he had next proceeded to attack parliament; and, last of all, he had made an attack on the people themselves. He had said, that parliament was negligent of its duty, and destitute of spirit, and that the people would suffer their liberties to be invaded; and that too at a period when, according to the right hon. gentleman, this country stood almost beyond all other nations, gifted with science, with literature, and with philosophy. Was it likely at such a period, that the House were unconscious of the blessings of those liberties and of that constitution, to endeavour to protect and preserve which was their daily duty? Or was it likely, that the people of this country were at such an hour, seeing all they saw in neighbouring countries, lost to a sense of those advantages which they had the happiness to enjoy? The right hon. gentleman had said, that for the sake of revenue they ought not to sacrifice liberty and the constitution; to that sentiment, there was no member who would not cordially subscribe. But he would ask the right hon. gentleman, if it thence followed, that all the arguments which he had used as apparent consequences from such premises must be true? If there was existing in the country so monstrous and oppresive a system as the right hon. gentleman had described the excise to be, he would ask him, if the patriots of those days in which the excise laws had been established and grown into a system, had not been bound to come forward to expose the dangers of that system, and honestly exert themselves to procure its demolition? The excise laws, they all knew, had been promoted and passed since the reign of Charles 2nd, in the best times, and when the greatest characters that ever dignified any country existed in this; and yet none of those men ever thought it incumbent upon them to oppose themselves generally to excise laws, as a system of laws under which no freeman ought to be placed. But the right hon. gentleman had argued that it was a bad thing to give up freedom for revenue, and that it was the duty of that House, to oppose the system of excise laws. If the right hon. gentleman meant any thing by that argument, he meant it to apply to the whole of the excise laws, and not merely to the present bill, which was founded in an endeavour to correct the numerous frauds acknowledged on all hands to be committed on the revenue in the article of tobacco; to do justice to the fair trader, and to render a tax efficient, which at present did not yield above half the income it was intended to produce. If the right hon. gentleman meant to push his argument to that extent, why did he not come forward and say, "Under the excise laws, it is true, you gain six millions of revenue; and I agree that there would be a national bankruptcy if those six millions were abandoned; but we must not sacrifice the constitution to the revenue, and therefore it is my duty to repeal the whole system of our excise laws." Mr. Grenville said, that national bankruptcy must necessarily be national ruin, and that with our credit and our constitution would fall our liberties and all our rights as men. Such consequences must follow, if the argument were carried to its full extent; and if it applied at all, it applied to that degree. If the right hon. gentleman had said, "It is not now necessary to increase your revenue; in former times we were forced to it; but here you wantonly extend it, without the degree of necessity;" he would, indeed, have produced a just argument, provided the facts would have borne him out. Fair as it would have been, however, it would, even in that case, have come with an ill grace from the right hon. gentleman, who

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a few days ago had confidently said, that our finances were inadequate to our expenses, and that means must be taken forthwith to increase our revenue. With regard to sir Robert Walpole, he agreed that his memory had been treated with less respect than it merited, as a minister. The fact, however, was, that he had been charged with having suffered a large debt to accumulate, and that he had not resorted to measures calculated to increase the revenue, and make it applicable to the reduction of the public debt; and if any part of the faults imputed to sir Robert appeared well founded, in his opinion it was, that he deserved reproach for not having come forward with sufficient measures for the reduction of that debt under which the country then laboured. But, was it true that it was more necessary in former times to endeavour to increase the revenue, by an application of the excise laws, than at present? Surely not. The right hon. gentleman had argued but a few days ago to the contrary. He had said, it was more easy to load a minister with calumny after he was dead, than while living. The truth of that observation he must contradict. Sir Robert Walpole was loaded with calumny while he was a minister, but now, when men could view his measures, free from the bias of the moment, his character experienced more justice. Just so at the present time; his right hon. friend, who was the minister of this country, was loaded with calumny and reproach by the right hon. gentleman and others, though he had no doubt his merits would be spoken of with due praise by posterity.—Mr. Grenville proceeded to treat of the bill. He pointed out the difference between new taxes and regulations of old taxes, contending, that it had been uniformly admitted, that new taxes ought not to be imposed, while there were in existence taxes capable of producing a large revenue, but which, for want of due regulation, did not produce their given amount. Tobacco was agreed on all hands to be a fit subject of taxation; the duties on it were high, and the revenue was defrauded in it to a degree almost inconceivable. It became, therefore, necessary to apply the excise laws to tobacco, and surely, to no one article could they be applied with greater propriety. But the right hon. gentleman had said, that he opposed the excise laws on principle, and would ever oppose them. Let him recollect the awkward predicament in which any conscientious man, bred up in the trade was placed, while the laws affecting the tobacco manufacture remained as they stood at present. He must either consent to carry on the manufacture, though he could scarcely live by it, or he must sacrifice his conscience and his integrity, by engaging in those enormous frauds which enabled other men to carry on a successful competition against him. If the right hon. gentleman could show that this alteration of the duty was dangerous to the liberties of the people, he would not give it his concurrence. But, was it dangerous? Undoubtedly it was not; they proposed only to put 300,000 people more under the excise laws than were under them before, and to have recourse to that which might co-exist with the constitution, and which had gone on with it for a number of years without the smallest injury to our liberties or our freedom. And so far was he from thinking that the country had not a just sense of those blessings, that he believed the people were as conscious of them as men could be. It was only by regulations of our existing taxes, that they could preserve that government of which they were mindful, and that constitution which they all admired. If on the present occasion, they relaxed in respect to tobacco, they in that case relaxed in those principles on which depended the national credit, its prosperity, and all that was dear to Englishmen, in which character he had not greater pride in speaking, than in the character of a member of that parliament which had distinguished itself so eminently as the friend and guardian of the constitution.

Mr. *Fox* believed it would be admitted on all hands, that he did not usually say one single syllable against the chancellor of the exchequer in his absence, which he was not ready to repeat in his presence. In fact, he had not made any personal attack on the minister, but on the administration, of which he should always speak as he thought. The right hon. gentleman had asked, was he ready to give up the six millions of revenue at present under the excise laws, and to push the nation to bankruptcy, by which our liberties and constitution must be destroyed? Most certainly not. He complained of this bill as an additional extension of the excise laws, and he certainly would oppose every attempt to extend them; but was that like declaring himself

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ready to abandon the six millions of revenue collected under the excise laws? He was not for pushing any argument, whether of revenue or politics to an extreme; and had he been in parliament when the first excise law which passed was in agitation, he should have firmly opposed it. He understood the right hon. gentleman to have said, that he had declared a preference of new taxes over new regulations. He had declared no such thing. He preferred new regulations to new taxes generally speaking; but it did not follow that he was bound to approve of all new regulations. He had only said that he should have preferred a new tax to the new regulation now proposed. As to there being no tobacconist who was an honest man and a fair trader, who did not approve of the measure, he knew the reverse to be the fact: if what he heard from those without doors, who were most likely to be well informed, was to be relied on, there was no one tobacconist in the kingdom for it; and therefore, according to the right hon. gentleman's argument, there was not one honest tobacconist.

Mr. *Dundas* congratulated Mr. Grenville on the many excellent arguments which he had urged in reply to the right hon. gentleman, but upon nothing more than having been the cause of the explanation which they had all heard from the right hon. gentleman; an explanation which he hoped was clearly understood, and well remembered. It was now evident, from the right hon. gentleman's own explanation, that he did not object to the excise laws in general, but merely to the present extension of those laws to the article of tobacco. Thinking that he had heard the right hon. gentleman say expressly, "that the excise laws were a system of laws under which no freeman ought to be put or to exist," he had intended, had not his right hon. friend saved him the trouble, to have asked the right hon. gentleman what substitute he meant to propose for the six millions of revenue which must be given up, in case the excise laws were to be abolished altogether, to save the nation from bankruptcy and utter ruin? He well knew that the right hon. gentleman held it to be a doctrine in politics, that opposition might oppose taxes, and that they were not to be called upon to name others in their stead; but surely, in a case of such magnitude, it would not be quite candid for opposition to put an end to six millions of revenue, without coming forward with a substitute to make good the deficiency. There was one point in which he could not help differing from his right hon. friend, and that was, in regard to the right hon. gentleman's having made an attack on the chancellor of the exchequer. When the right hon. gentleman over the way had made such a long, eloquent, and ingenious invective against the excise laws, he understood him not to have attacked the minister, but to have spoken highly in his praise, and to have meant to say, what the right hon. gentleman had declared he did mean to say, that, from the good sense of the country, their opinion of the chancellor of the exchequer's integrity, ability, and many virtues, they had raised him to a height of popularity, almost unexampled, and had made him their idol. In that respect, so far from attacking his right hon. friend, the right hon gentleman had actually spoken in his praise, and asserted, with fervour and with truth, his deserved and well-earned popularity. When the right hon. gentleman came to oppose the means of increasing the revenue, he seemed to have forgotten that only two or three days ago, he had told the House, that the revenue must be increased, and that it was not adequate to the expenditure. They had, on the present occasion, raised what they wanted without an increase of the excise laws; but, whenever a capital addition to the revenue should be hereafter wanted, recourse must be had to them. He entreated gentlemen to advert to the only sources of revenue which this country possessed. Not having an extent of territory, we could not draw great and important revenues from the internal wealth of the subjects, and our export trade was, he conceived, nearly carried as high, as we could push it. For this reason, should it become hereafter necessary to raise considerable sums, to contend that they could be obtained without recurring to the excise laws, was at once impolitic and absurd.

Mr. *Fox* answered, that he was against the excise laws, unless two things could be proved to him; first, that there existed an urgent necessity for extending the excise laws, and secondly, that they could be extended without oppression to the subject. Those who contended that abolishing the excise laws altogether, would create a national bankruptcy, asserted more than the case required, because other means could surely be found for

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raising the money. As to his calling the chancellor of the exchequer the idol of his country, what he had said he would say still, that the right hon. gentleman was the instrument of a victorious party. With regard to himself, he had been for twenty years in opposition, with some few exceptions, and had perceived that the general cry was, that opposition opposed every measure, right or wrong; but the right hon. gentleman seemed to think it necessary that they should come down, day after day, to watch the measures of the minister; a duty which he did not deem quite so requisite, when business came on at a period of the session, when it was vain to resist. With regard to its not being right that opposition should propose taxes, he had ever maintained that doctrine; because taxes ought only to be proposed by those who had the finances under their immediate care, and must best know how far any proposition which they made, was fit and practicable. That was, undoubtedly, his general doctrine; but his conduct in particular had been an exception to his own rule; for he had never in his life opposed a tax without suggesting some other mode of raising the money. In the present case, for want of preparation, he was not ready to propose a substitute in that instance, though he declared himself adverse to the regulation. There were other modes of raising the money, however, and some of them extremely simple, which had been proposed to ministers; one was reducing the duty, which would at least put an end to the frauds practised in the article of tobacco, if it did not make good the deficiency of the revenue. Not only with respect to the increase of the army, but in other instances, he had opposed expense, and tried to enforce economy, the surest means of aiding the revenue.

Mr. *Martin* was sorry to hear, from such authority, that the excise laws must be resorted to on any great emergency; he was a determined enemy to their extension; he had ever opposed them; and as long as he had a seat in that House, he should think it his duty to oppose them. He declared Mr. Fox's speech to have been one of the most constitutional he had ever heard.

The House divided: Yeas 70; Noes, 20. So it was resolved in the affirmative.

July 17. On the motion that the bill do pass,

Mr. Alderman *Watson* observed, that the tobacconists having fully deliberated on the bill, had desired him to declare from them in the most respectful manner, that they considered the whole of it to be still unjust towards them; that many of the clauses bore so had upon the manufacture, that to all it would be highly injurious, and to many destructive.

Sir *Grey Cooper* declared, that he did not oppose the passing of this bill merely on the ground of the extension of the survey and laws of excise to the dealers and manufacturers of tobacco. The alarm which had agitated the nation and defeated the plan of sir Robert Walpole, in 1733, was revived on the imposition of the inland duties on cyder, at the beginning of the present reign. He heard the late earl of Chatham inveigh against the proposition with all the powers and splendour of his eloquence "non solum fortibus sed fulgentibus armis," and he spoke with particular animation on the good old maxim of the common law, "That every man's house is his castle." He would not repeat his expressions, though he remembered them very nearly; for he was afraid lest the salt and spirit of the eloquence might evaporate in his repetition. Yet it must be taken into consideration that in consequence of the powers given by the cyder-tax bill, the officers of excise might enter the dwellings of makers of cyder, not for sale but for private consumption. That made an essential and particular objection to the cyder tax as it was first proposed. Upon the repeal of that act, excise seemed to have laid asleep. When it was proposed to extend the excise regulations to wine, no great apprehension or alarm arose either in that House or without doors, on the account of that extension. The people seemed to have fallen into a state of indifference about the matter, or they lived so happily in their houses, that they forgot that they were their castles. The truth was, that the commissioners and the justices of the peace, to whose management the execution of the excise laws was trusted, for a long course of years, administered their great authority with so much moderation, and tempered the rigour of penalties and forfeitures with so sound a discretion, and made so equitable an application of the powers of mitigation to the offences tried before them in their summary and final judicature, that an immense revenue was collected under the control and coercion

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of those laws, without grievance or complaint: we depended, indeed, upon their forbearance to execute their powers; for, if they were extreme to mark whatever was done amiss, the fairest trader could not abide it. Sir Grey trusted, however, that it was not become quite a matter of course, that any article of commerce or manufacture should be subjected to the inland duties and laws of excise, unless the minister, who proposed the measure, could make a strong case for such a proposition. He trusted, that it would never be forgotten, that the principle of the excise regulations was averse from the temper and spirit of this constitution; and that we submit to the visitation of the officers, and the summary judicature of the commissioners, merely on the ground of those powers being deemed necessary for the enforcing the collection of a revenue on which the existence of the nation, as an independent power, was founded. To induce the House to consent to the extension, it ought to be proved, not only that great frauds were committed, to the diminution of the present taxes on the article, and to the manifest injury of the fair trader; but it also was necessary to be shown, to the satisfaction of the House, that the article was of a proper nature, and equally to be surveyed and collected by excise regulations, and that there was more than a probability, that by adding the inland duties to the duties of customs, the revenue would be augmented to a very considerable amount. In the cases of almost all the great commodities on which public revenue was raised, where there were several processes, intervals, and rests, in the manufacture, before it was brought to its complete state for sale and consumption, and where the officer could, at stated times, take his guages and observations, the excise was the only proper mode of charging and collecting the revenue. This was clearly true with respect to the brewery of beer and porter. It was equally clear with respect to the making of malt; from which two great articles an immense revenue was levied, without any considerable fraud or evasion. So in the manufactures of leather, soap, and candles, but with somewhat more liability to illicit practices, than in the brewery, and making of malt. It had been found more difficult to charge and collect the excise duties on spirits made of malt and molasses; though there were certain rests and distinct stages in the processes in the manufacture; and although the duty was chargeable by the gauge of the officer on the wash, on the low wines, and on the spirit. An act had lately been passed for making a new mode of charging the spirit duty. The survey of excise was not applied with success to the article of tea. Here sir Grey stated an account of the laws which had been made for imposing duties on tea, and the variations in the amount of those duties, in consequence of those laws, from the 10th of George 1st home to the commutation project. He then returned to the consideration of the bill, which it was now proposed to pass. The bill, when it was presented to the House, contained many rules and regulations entirely inapplicable to the manufacture of tobacco and snuff, and physically impossible to be executed. The manufacturers were subjected to penalties for having those things undone which they could not do, and for having done those things which it was not in their power to avoid doing. Some of the most objectionable clauses had been left out in the committee and on the report; but still there were many regulations remaining, under which, if enforced and attempted to be put in execution, the fair traders and manufacturers could not carry on their business. There still remained objections to more than thirty clauses or parts of clauses in the original bill, and to some of the new clauses added to the amended bill.—But to the principal objection, as it appeared to him, was to the clause with respect to the table of allowances for increase in the manufacture of various specified articles, because, as it appeared from Mr. Postlethwaite's evidence, the fair trader might, from the various and unascertainable differences in the texture and quality of the leaf tobacco in the same hogshead, of the places in which it had been kept, and the state of the atmosphere when it was in fermentation, have an increase of 50 per cent. exceeding the credit. Upon the whole, if the processes of the manufacture of tobacco and snuff were capable of being surveyed with any reasonable certainty, and if there were such rests and stages in those manufactures as could enable the officer to take stock by weight or by gauge, or to form any certain rule or standard of the increase or decrease of the manufacture after the various and constantly varying processes, he should vote for making the experiment. But,

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it appeared to him that many of the remaining regulations might, if enforced, inflict so much vexation on the fairest traders, and, by the uncertainty and latitude of the estimates and allowances, give so much advantage to the contrivances of smugglers, as to drive some considerable part of the manufacture of snuff out of the kingdom, and, in the result, diminish the present duty, which amounted to near 500,000*l.* per annum; and though it did not produce so much as it ought to do, it was a great stake. — In conclusion he would mention an anecdote, of which the respectable father of the right hon. secretary (Mr. George Grenville) had, as he was given to understand, informed some of his friends, that it was matter of consolation to sir Robert Walpole, after the defeat of his proposition for carrying the excise to the duties on tobacco, that, upon the farther inquiries which he had made after that period, he did not believe the survey of excise could, in any considerable degree, have increased the duty on that article. And when the act of the 24th George 2nd passed for the more effectual securing the duties on tobacco, Mr. Pelham had it in contemplation to propose to parliament to put that article under the survey of excise. And sir Grey Cooper said, that he had been lately assured, by a great and respectable person who was at that time in office, that after many meetings with the principal traders and manufacturers of that time, and after many repeated consultations on the matter, it was given up, because Mr. Pelham and his friends were convinced, that from the peculiar nature of the manufacture of tobacco and snuff, the survey of excise could not be applied to them with advantage to the revenue.

Sir *James Johnstone* approved of the measure in all respects, but the depriving the manufacturers of the trial by jury, which was every Englishman's birth-right. He said, there remained above two millions of subjects of this kingdom, who had the enjoyment of no such benefit, and those were the people of Scotland. At present, every man had that benefit in England, excepting those who were manufacturers of exciseable articles.

The bill was then passed.

Debate on Mr. Sheridan's Motion for a Committee on the Public Income and Expenditure.] July 10. The order of the day being read,

Mr. *Sheridan* rose, and introduced the points which led to his intended motion for a committee on the public income and expenditure, with the remark, that considering the importance of the business on the discussion of which he was about to enter, he felt that he ought to have submitted it to the House at an earlier period of the session, when a fuller attendance of members might be expected, and those who did attend, might have been more disposed to bestow on it that degree of attention which an inquiry of so much importance to themselves, their constituents, and the nation at large, demanded. That he had not done so, was owing to a right hon. gentleman, the chancellor of the exchequer, who, according to his usual custom, had deferred opening the budget, till a period of the session which he thought likely to render any subsequent examination of his own statement of the finances impracticable. After this and the other necessary previous steps of moving for papers and accounts had been taken, yesterday was fixed on as the day; and he had come down with his head full of figures a few minutes after four, but, unfortunately the Speaker had entered into a previous calculation, and finding a deficit of members —a deficit which he could not help thinking was ominous of a deficit in the finances—he executed his duty, and adjourned the House. The surplus of members, now that he was speaking, was not great; he was afraid the surplus of the revenue would be less. By the delay of a few days, which he had agreed to, that the chancellor of the exchequer might not be deprived of the assistance of his right hon. friend (Mr. Grenville) who had been chairman of the committee of accounts in 1786, some advantage had been obtained, inasmuch as it had given time to move for additional papers to correct the errors of those for which he had formerly moved. He could not, however, see the reason why the chancellor of the exchequer should have been so anxious for the assistance of his right hon. friend, since any other member of the committee might have been able to explain and defend the report; and since the chancellor of the exchequer himself, who had adopted the principles and the calculations of the report, might have been supposed to be fully master of what he had thus made his own, and capable of refuting any objections that could be

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urged against it. Had the budget been opened, as it certainly might have been, before the present Speaker was voted into the chair, the chancellor of the exchequer must have been deprived of the assistance of his right hon. friend, who must have remained mute and immovable in the chair, like a magician tied by his own spell, without the power of succouring his friend, whatever might have been his distress, or however loudly he had invoked his aid. That right hon. gentleman was now advanced from the dignity of Speaker, to speak in the language of a noble marquis near him, to the higher dignity of secretary of state; and not only to that, but also to the post of deputy chancellor of the exchequer. His right hon. friend, taking example from the university which he represented, conceived that there ought to be a chancellor of the exchequer, to enjoy all the honour and the patronage of the office; and a vice chancellor, to take upon him the labour and the drudgery of investigating accounts. Much as he respected the abilities of the right hon. gentleman who had been so earnestly called to office, he was not afraid to encounter them on the present occasion. Standing as he did on figures and fair indisputable calculation, he dreaded not the opposition of the first abilities, whether separate or conjoined.

Upon this occasion, he should assume as a leading principle, what he supposed would not be denied, that the state of the finances ought to be fully examined and fairly made known to the country; that, in order to confirm in the minds of the people that confidence in the legislature, which alone could make them cheerfully submit to the burthens imposed upon them, they ought to be made acquainted with the full extent of the public debt, revenue, and expenditure; and, instead of being imposed on by flattering prospects and temporizing projects, have their true situation at once laid before them. If it should be maintained that there ought to be delusion, that the people, to be induced to bear, must never be permitted to judge, what he had to offer would be impertinent; but if it was once admitted, that there ought to be a public investigation of the public revenue, there could be no difficulty in repeating that sort of inquiry that had been made before, examining how far former calculations had been verified by experience, and making, if necessary, a new statement of the public resources, and the public expenditure. He did not propose to do this, because he thought the result of the inquiry would afford cause for despondence. The resources of the country, he was persuaded, were more than equal to its burthens. The only danger was in shunning inquiry, in endeavouring to gloss over the one, and neglecting to draw forth the other. He did not mean to ascribe the least blame to the chancellor of the exchequer, for endeavouring to begin the liquidation of the public debt in 1786; what he blamed was, that when he came to wind up the expenses of the war, he had not fortitude and candour to state the account fairly. At the end of a war, which, though expensive and partly unsuccessful, had been glorious, which had displayed the power and the resources of the nation; which had exhibited it contending against the united force of France, Spain, and Holland, repelling their attacks, and scattering their fleets, the people had had intrepidity and patriotism enough to look their true situation in the face, and to submit to taxes necessary to maintain a peace establishment, pay the interest of their debts, and provide a surplus for their gradual liquidation. But when they found, after being told that they had such a surplus, and after four years of profound peace, that instead of reducing their expenses, they must bear new taxes to pay the interest of fresh loans, they must lose all confidence in the right hon. gentleman, in whom their confidence had been so gratuitous and unbounded; they must lose all confidence in the government, all confidence in their own representatives, and look on themselves as meant only to be deceived and oppressed. Granting that a change of administration had taken place on an occasion when, they all recollected, it was generally expected, what would have been the effect of this deception? The people had been told that they had an annual million surplus; they were incessantly told, he would not say from authority, by all the ministerial prints, that they might look for another million surplus; and the delusion was still farther increased by the minister himself, who had repeatedly said that an extraordinary and unforeseen expense of 600,000*l.* would be defrayed without any extraordinary supply. This sum, in four years, was only 150,000*l.* a year, and to compare the revenue of a nation with that of an individual, if a person, with an

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estate of 16,000*l.* a year, should not be able to bear an unforeseen expense of 150*l.* a year, without borrowing, his expenses must be very ill accommodated to his income, or he must be a very bad economist. Such, however, was the case: when the chancellor of the exchequer stated this sum as part of the expenses of the year, he had never said that an extraordinary supply would be wanted on account of it. On the contrary, he had remarked, that he was happy to find that no extraordinary supply would be necessary; which meant, if it meant any thing, that the revenue was sufficient to provide for this sum and the surplus million also. Suppose, then, a change of ministry to have taken place, the duke of Portland to have been appointed first lord of the treasury, and lord John Cavendish to have testified his zeal for the public service by undertaking the office of chancellor of the exchequer, and to have come to parliament to propose a loan for this extraordinary expense, and taxes to pay the interest, as his first official act, what would have been the consequence? Nothing would have been heard but clamour. "Mr. Pitt," it would have been echoed from one end of the kingdom to the other, "kept up public credit, and provided a surplus; these men borrow money, lay taxes, and squander the revenue by anticipation." Had they done what it would have been their duty to do; had they stated once for all the true situation of the finances, borrowed whatever sums it might have appeared necessary to borrow, and imposed taxes to pay the interest, the clamour against them would have been much greater. Had they done, on the other hand, what some people would have thought more for their own convenience, had they temporized with the state of the finances, had they eked them out by tricks, bolstered them up by expedients, and thereby continued the delusion, the deception must have gone on till it was too gross to be concealed; the bubble must have burst at last, and all confidence in parliament would have been lost.

After this exordium, which, Mr. Sheridan contended, was not extraneous matter, he stated the four propositions that he meant to establish; propositions, in fact, founded upon the report of the select committee. They were in substance as follow: 1. That the report of the committee, appointed in 1786, to examine and state the several accounts relating to the public income and expenditure, and to report the probable amount of the income and expenditure in future, does not appear to have been founded in fact, nor verified by experiment. 2. That, for the three last years, the expenditure has exceeded the income two millions, and may be expected to do so for three years to come. 3. That no progress has hitherto been made in the reduction of the public debt. 4. That there is no ground for rational expectation, that any progress can be made without a considerable increase of the annual income, or reduction of the expenses.

The first circumstance to be considered was—Did the report of the committee, and the chancellor of the exchequer who adopted all the calculations and all the reasoning of that report, hold out the expectation, that after the year 1786 there would be no necessity for a loan? An hon. gentleman (Mr. Steele) had asserted, on his recollection, that the chancellor of the exchequer did not thus calculate and reason; but that he stated the probability of a loan of one or two millions. Mr. Sheridan contended, that the right hon. gentleman had asserted that he would, by taxes and regulations of taxes, make the revenue equal to the expenditure, including the million surplus for the reduction of the public debt. He would not, however, argue from memory, but refer to the internal evidence of the report. The report stated what might be expected to be the amount of the annual income and expenditure, also what might be expected to be the amount of the extraordinaries; not, indeed, of the army, the navy, or the ordnance (these were beneath the notice of the committee), but of the miscellaneous services. They had erred, however, in their calculation, as appeared by the event, to the amount of 600,000*l.* The report next stated the extraordinary means, and on a comparison of the one with the other, concluded with this observation: "Upon the whole, your committee conceive that the means of defraying the expenses, exclusive of the average income above stated, may be expected to be sufficient for the purpose." In considering the extraordinary means, the committee had, moreover, adverted to a loan, although they had computed the extraordinary services, till the year 1790, at three millions, which, he contended, would amount

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to twelve; and having adverted to it, had stated their reasons for thinking it would not be necessary. It was, therefore, obvious, that after having had it in their contemplation, they had laid aside the idea of a loan, when they stated the extraordinary receipt as equal to the extraordinary expenditure. Of these fancied resources the Crown lands and unclaimed dividends had produced nothing. He did not mean to argue, that they ought to have been productive, but only to blame the fallacy of holding forth visionary ideas of revenue, and calculating on them as real. The concluding paragraph of the report went still farther; it stated, that "the then subsisting taxes, if the due collection could be enforced by means adequate to the purpose, would probably afford an ample provision for any deficiencies which might at any time be found, either in the extraordinary resources, or in the particulars which compose the general income of the public, and would insure a permanent annual surplus applicable to the reduction of the national debt." There was not only provision for all extraordinary expenses and unforeseen deficiencies, but an exuberance of revenue; after stating which, it was impossible that the committee could have held forth the idea of a loan, or that the chancellor of the exchequer, when he adopted the report throughout, could have said that a loan to any amount was probable. A loan, however, had actually taken place, and so far the calculation of the committee had failed.

The committee had estimated the annual income, exclusive of the land and malt tax, at 12,794,471*l.* The chancellor of the exchequer had stated it, for the last year, and as what it was likely to amount to in future, at 13,007,642*l.* and had asked him, with an air of triumph, if he did not admit that the estimate of the committee had been not only verified, but exceeded? Had this been the fact? The produce of the first year, after their calculation, had fallen 300,000*l.* short of it. He was aware he should be told that this had been an extraordinary year, and that the customs had fallen short on account of the commercial treaty being then in agitation. This was a fair argument with regard to that year; but, if it was improper for him to argue from a year particularly unfavourable, so was it for the chancellor of the exchequer to calculate on any one year particularly favourable.

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The committee had turned their backs on an average of several years, which was the only true ground of estimate, and the chancellor of the exchequer rested his estimate on the produce of the last year. Rejecting an average, was the blunder of the committee, and the chancellor of the exchequer now copied their example. They calculated on one year, he calculated on another; and both of them were favourable. If they meant to take an average of two years only, the year preceding and the year following the commercial treaty, were the proper years; because, as much as the customs were injured by the expectation of it the one year, so much would they naturally be increased the year after it took place; as every man who delayed completing his stock of brandy or French wine, in the hope of importing at a reduced duty, would import so much the more as soon as the duty took place. The commercial treaty, however, had now its full operation on every branch of the revenue; and if the average of the last three years were taken, it would appear that the produce was about 30,000*l.* less than it had been calculated by the committee. The net produce of customs, excise, stamps, and incidents, from 5th of January, 1786, to 5th of January, 1787, was 12,389,555*l.*; from 1787 to 1788, 12,928,134*l.*; from 1788 to 1789, 13,007,642*l.*; the average of which was 12,773,443*l.*; deficient, as he had stated, about 30,000*l.*; and the same would be the case, whether reckoned from January to January, or from April to April. This deficiency was not great, but it was not the whole deficiency. The committee calculated on the then subsisting taxes, and since that time, some open and much greater clandestine additions had been made to them. By the amount of all these additions, added to 30,000*l.* did the revenue fall short of the calculation. The chancellor of the exchequer had openly laid taxes to the amount of 100,000*l.* in order to make up the surplus million; and he had had recourse to other taxes which he did not avow, but which, under the specious name of regulations, were as much levied on the subject as if the same sums had been raised by new taxes under a new name. He did not disapprove of increasing the revenue; but he disapproved of laying taxes any way but openly. The chancellor of the exchequer might have reasons for acting otherwise. He knew that his word was

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pledged that no more taxes would be necessary. His credit was at stake; and what he feared to do openly, and by its proper name, he chose to do clandestinely under a specious colour. Had he owned his mistake, and come fairly forward, the House and the public would have readily allowed that calculations of revenue were liable to error, and he would have lost no confidence; but being once in a mistake he determined to persist, and while he professed to be making provisions against smugglers, was himself smuggling a tax under the wrapper of a regulation.

Mr. Sheridan now proceeded to reckon up the amount of the tax on woods of a certain sort imported, of the additional tax on paper, on the Scots distillery, licensing ale-houses, and the consolidation act, which being added to the resources calculated on by the committee, ought to have produced, on an average, 300,000*l.* above their estimate. There was, therefore, a defalcation to that amount on the produce of the permanent taxes. He next calculated the amount of the land and malt tax, which, although regularly taken by the chancellor of the exchequer at 2,750,000*l.*, did not produce, on an average of three years, more than 2,430,000*l.* The whole annual produce of all the taxes, including the land and malt tax, on an average of the last three years, was only 15,208,000*l.*, less by about 200,000*l.* than estimated by the committee; and if to this were added the 300,000*l.* arising from taxes, on which the committee did not calculate, their estimate would appear to be erroneous by about 500,000*l.* And yet, this was not all; the resource suggested by the committee of increasing the revenue by securing the collection of taxes, had been applied to. But had it succeeded? had it done what they prophesied it would do? He held in his hand titles of bills for regulating taxes sufficient to make a long although not a very entertaining pamphlet; so that either the calculations of the committee had been egregiously wrong, or the regulations had been good for nothing. The right hon. gentleman who had been chairman of the committee, and who was now to stand forth as the champion of the report, might say to the chancellor of the exchequer, "You have been new modelling this tax, and regulating the collection of it; you have been tampering, tinkering, and extending the excise laws; but you have done me no good; you have not added a shilling to my calculation." Or the chancellor of the exchequer might say to his right hon. friend; "No; that is not the case; my regulations were all productive, and, but for them, your calculations would have been deficient more than a million." Some such contest there must be between the two right hon. gentlemen; how they would settle it he could not tell. It was the uniform practice of the chancellor of the exchequer, not the effect of accident or necessity, but of system and choice, to bring forward his tax bills at a period of the session when he was sure they could not be attended to. If it arose from honest idleness there would be some excuse; but it proceeded from design, and the end was obvious. In the middle of summer he knew many gentlemen would be withdrawn to attend their own affairs in the country, and of those who remained in town few would be disposed to sit and discuss with him regulations of taxes. This revenue barge lay snug in port during the stormy winter months; but when summer had warmed the air and smoothed the tide, then she put forth, loaded gunnel deep, secure that no rude blast or angry wave would overset and sink the precious cargo. He, himself, on inquiring why the minister was so indolent and dilatory in bringing forward public business, had been told by a friend of his, that, "it was not indolence, he only waited till the gentlemen were gone into the country." Then it was that he enjoyed the cool and quiet pleasures of the treasury bench, and called the two secretaries, like two rival shepherds, to chaunt alternate strains on excise. He had objected a few days ago to one of his bills, on account of the discordant matter, cocoa nuts, cockets, and tub boats, it contained; and he had been told that hotch-potch bills were common, and saved the multiplication of acts of parliament. The only reason which had originally given rise to such bills, was the jealousy of the country members of keeping the committee of supply too long open. Rather than do this they had sometimes consented to such bills being brought in, as the less evil of the two. But all the ministers revenue bills were hotch-potch bills; for, if they were not so when first brought in, they had so many things altered, amended, and added, before they went through, that the original bill was hardly to be traced. The bill, for instance, to which he had alluded, when it

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came into the House, was a very good tub-bottom bill; before it passed the committee it had a false keel clapped on it, and became he knew not what. The right hon. gentleman was at as much pains to make laws that might escape observation, as the smugglers were to elude the efficacy of his laws. The consequence was, that they were generally so inadequate to their purpose, as to be of no use, or so absurd and impracticable that he was obliged to suspend the operation of them, and come to parliament during the next ensuing session to revise and amend them. The suspension of acts of parliament by the lords of the treasury, which had been treated so lightly when he mentioned it before, was a very serious evil; for independently of the extent to which the practice, once sanctioned by a sort of prescription, might be carried, it was a serious evil to teach the people to distrust their representatives, to consider the legislature as their tyrants and oppressors, and to look up for every act of grace or favour from the Crown. If bills were to be passed without proper examination, it was better to add a sweeping clause, "That whereas this bill may prove to be impracticable or absurd, be it enacted that the lords of the treasury have power to suspend the operation of the same." The resource to be derived from regulating taxes had been applied to, and without it the committee would have been completely put to shame. With regard to how far arts and manufactures had been injured, or trade impeded, by the severity of these regulations, he should not then inquire.

Mr. Sheridan next entered upon an investigation of the expenditure. And here, he said, it might have been expected that the most valuable of all resources, the resource arising from economy, would have been tried. Instead of that, in proportion as the revenue did not rise to its supposed standard, the minister had gone on with progressive prodigality, increasing the expense. He proceeded in the same way he had done with the revenue, to take an average of the expenditure for the three last years, making 15,930,000*l.* a-year. Of the various articles composing this sum the only one in which a reduction appeared probable, was that of miscellaneous services. This on the same average, was 649,000*l.* a-year. Did it seem likely that it would ever fall so low as 74,000*l.*, the sum it was stated at by the committee? Mr. Sheridan recapitulated the various items which composed this article, commenting on each, and asking, which of them was likely to be less for several years to come? Would the chancellor of the exchequer say, that, considering the number of the royal family, some of them must have separate establishments, and some of them might be disposed of in marriage, 200,000*l.* would be sufficient to make good the deficiencies of the civil list for the next five years? Were the claims of the American loyalists liquidated? Was the expense of Botany Bay at an end? Had the duke of Richmond no more powder mills to buy, or walls or forts to build? Would the salary to the secretary to the commissioners for reducing the national debt cease? Was Carlton House yet finished? These, with a few others equally permanent, were heads that made the miscellaneous services amount on an average to the sum which he had stated; and could it be imagined that they would ever be reduced to 74,000*l.*? It was also to be observed, that of the three years on which he had calculated the whole public expenditure, the second exceeded the first, and the third the second. But, this was not all; the navy bills, after every profession that they should never be suffered to exceed the sum stated by the committee, as the probable fixed amount of the floating navy debt, were increased 600,000*l.*, and 1,400,000*l.* of them were now bearing interest. If, to the average expenditure before stated, was added one-third of this increase of the navy debt, and the sum issued to the commissioners for the reduction of the public debt, the whole annual expenditure would amount to 17,144,000*l.*, exceeding the average income by more than 1,940,000*l.* Such was our present situation! The expense of the current year was something above this estimate, and the next could not be expected to be much less. If, therefore, we were to start on a level, we must first sweep off all the miscellaneous services above 74,000*l.* a-year, which could not be done for less than two millions! so that in addition to the two millions deficiency of the revenue, as before stated, two millions more must be added, to bring the miscellaneous services to the estimated peace establishment. The exceedings of the navy had been stated by the committee at from 2,000,000*l.* to 2,800,000*l.* Comparing this with sir Charles Middle-

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ton's account, it would appear to be erroneous, but taking it as stated by the committee, with the 600,000*l.* actual addition to the navy debt, in three years it would be 1,880,000*l.*, and the amount of the whole in five years, 9,400,000*l.* Add to this the two millions before mentioned, as necessary to reduce the miscellaneous services to the estimated peace establishment, and the whole would be very little less than twelve millions, expended in five years, more than the annual income. Having cleared away this, or provided taxes to pay the interest, we must then either raise our income, or reduce our expense 1,800,000*l.* a-year, before we could be in the situation to which the chancellor of the exchequer boasted that he had brought us.

Upon this occasion it seemed extremely natural to inquire, how we had supplied so great a deficiency, and paid off three millions of the funded debt. The committee had calculated on outstanding debts, and there was on the table a paper very inaccurately made out, containing an account of these, to the amount of 1,500,000*l.*, deducting the profits of the lottery, which ought not to be included in it. The chancellor of the exchequer had taken credit three times for a debt due by the East India company. The company, indeed, disputed the debt, but the right hon. and learned gentleman near the minister (Mr. Dundas) had truly said, let us get the money from them, and see how they can get it back again. This was an irresistible argument, and on the strength of it 300,000*l.* had, after much wrangling, been obtained from the company, under promise of re-payment, if it should hereafter appear not to have been due. If it was a debt, in Heaven's name let it be paid; but if it was not, and the company advanced it only as a favour, it must be repaid with interest some time or other; and the favours of the company generally cost the public, at least, tolerably dear. The directors had drawn up a state of the claim to be sent out to their servants in India; but as it was necessary that it should pass through the hands of the board of control, that board had altered it, and obliged the directors to send out not their own state of their case, but the minister's. After all, the claim was not yet finally admitted, and there were great doubts whether it would be or not. When he found the company borrowing of the public under the sanction of the minister, and the minister borrowing again of the company, he could not help considering it as a pleasant sort of reciprocity between the two parties, in which the one said to the other, "I will find you credit, and do you find me money." It was surely not going too far to say, that a minister must have been extraordinarily pushed for money, when he had recourse to such extraordinary means of supply. To the resource of outstanding debts must be added the profits of the lottery, which ought never to be considered as a source of permanent revenue; for, it was certain, that however the revenue might be benefited by it, the people were sure to lose both in their morals and their industry; what was lost by the people, was, in fact, lost by the public; and so pernicious a mode of raising money ought never to be resorted to but in cases of great necessity. But both these amounting to 3,079,812*l.*, not being half the exceedings, he came to his third proposition, that we had made no progress in the reduction of the public debt, but that in fact we had borrowed as much as we had paid.

It was during the year 1785 that an extraordinary million of exchequer bills had been voted, not for the current services of the year, but to answer any unforeseen demands which might occur. The probability was that they would not be wanted; if not wanted they were not to be issued; and were positively to make no permanent addition to the public debt. When the chancellor of the exchequer conceived the plan of establishing a new sinking fund for the reduction of the public debt, he found it convenient to make use of these bills, and 900,000*l.* of them were actually issued after the 22nd of February 1786, as appeared by the account. Would he have done this if he had not had in contemplation the commencement of his operation to reduce the debt? Had he not done this he would have been deficient to the amount of these bills; so that, in truth and in fact, he as much paid off the first annual payment of the debt with these bills, as if he had carried them in his hand to the stock exchange; and the only effect of the operation was, to change one sort of debt to another, at a trifling expense to the public. On this account, however, he should only take 750,000*l.*, the sum actually issued to the commissioners for re-

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ducing the public debt in 1786. By anticipating the sinking fund a quarter in 1786, and taking credit for four quarters next year instead of three (as had been formerly done on similar occasions) the minister got 628,000*l.*, which would appear on winding up the accounts to any given period to be as much debt as if the money had been actually borrowed. The committee had stated the navy debt at 1,712,489*l.*, but added, that, from the delay in calling for payment of many of the charges of which it was composed, a floating arrear to that amount might generally be expected to subsist; and as it neither bore interest nor would require to be funded, it could not occasion any additional charge to the public. This might have seemed a pledge to the public, that no part of this sum was to make part of the public debt. It appeared, however, that 550,000*l.* had been added to the capital, and that 1,400,000*l.* of it now bore interest, and was consequently in operation and in substance an addition to the public debt. To this ruinous expedient of paying interest on unfunded debt, which had been so pointedly reprobated in his majesty's speech, had the very minister who advised that speech thought proper to resort. He would, however, put 900,000*l.* of this sum out of the question, although he really felt that he was hardly justifiable in doing it, and take only the addition to the capital with the interest, making together 600,000*l.* On the next article, the tontine, there would be no dispute. By this expedient, it was very generally believed, that the minister had made no addition to the capital of the public debt. The point, he understood, had been gravely debated in various places, and it was pronounced to be no addition. People, to be sure, did not know very well what to make of it. It was not a loan, it was not an annuity, but it was a sort of anodyne, an expedient for borrowing money without running in debt, which they did not comprehend. Keeping in mind, however, what a right hon. friend of his (Mr. Fox) had truly stated, the public owed no debt, as it could not be called upon to pay the principal, but annuities to a certain amount; the tontine was as much an addition to the aggregate of the annuities to be paid by the public, as would have been made by any other species of loan. It was true it would extinguish itself in time; and he did not blame the minister for having entered into a contract of finance with death, nor was it much to his purpose to argue whether it was a better or a worse mode of raising money than any other; but he did not give him credit for any very deep reason in adopting it.

It was provided in the surplus bill, that, in all cases of a loan in the usual way, the commissioners for reducing the debt should have preference as subscribers. If the minister had made his bargain in the usual way, he knew that the commissioners would have subscribed the whole, and he would have received from them with one hand what he paid them with the other, deducting only the expense of brokerage, which would have put the absurdity of pretending to reduce the public debt, while he was adding to it in the same proportion, in too glaring a point of view to escape public notice and derision. The point was plain enough as it was; but it did not strike the observation of the multitude. The amount of this, with a bonus of one quarter, instead of a gain to the public of three quarters per cent. as the right hon. gentleman had originally stated his bargain, was 1,002,500*l.* The short annuities granted to raise 200,000*l.* to make good the like sum issued from the civil list for secret services were charged on the consolidated fund, and, in that respect, were an addition to the debt. But it was contended, that the money would be repaid by instalments in eighteen years, having been lent to the province of Zealand. Whoever considered the new situation in which we stood with regard to continental affairs, an advantageous situation he admitted, would incline to think that, in the course of eighteen years, we were much more likely to advance double the sum on a similar account. But granting that it would be repaid, provision ought to have been made for applying the instalments, as they were received, to the payment of the annuities, instead of leaving them open to be diverted to other purposes by the influence of the present or any future minister. The principle of the surplus bill was, that parliament would not trust themselves, and the same principle ought to have been applied here. This House, he hoped, would therefore give him credit for candour, in not taking this sum also into the accounts. The result, then, was, that since the year 1786, we had paid of the funded debt, three millions, and that we had borrowed, by exchequer bills,

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750,000*l.*; by anticipation of the sinking fund, one quarter, 628,000*l.*; by increase of navy debt, 600,000*l.*; by a tontine, 1,002,500*l.*; making together about as much as the sum paid off. If the 900,000*l.* navy bills bearing interest, which he had omitted, were added, the sum borrowed would exceed the sum paid by almost a million; and if the interest of the debt contracted were compared with that of the debt paid, it would exceed it in the same proportion. Such was our present situation, and such was our prospect for the year 1790, when we had been told that every thing was to be reduced to a firm establishment!

Mr. Sheridan declared, that he did not blame the industry of the minister in endeavouring to pay off the public debt; but it was his principle that he blamed. The principle on which he acted was, that whenever the public wants money, you are to break down every barrier of the constitution, every fence of private liberty, to extend the excise laws, and deprive men of their most valuable privileges, that of trial by jury, in order to obtain it. He, on the other hand, maintained, that because money was necessary for the public service, it ought to be obtained by the most delicate means. The public debt he thought the heaviest burthen on the constitution; for he considered every hundred pounds of it as a perpetual mortgage in the hands of the Crown, capable of being perverted to the most corrupt purposes of influence or oppression; and therefore he would sacrifice much to be relieved from it. If to open private dwelling-houses to the rude intrusion of a ruffian excise officer, if to deprive men of trial by jury, were matters of indifference to him, yet his regard for trade, the great source of revenue, would deter him from having recourse to such methods of increasing it. When we talked of the trade of this country, and the inexhaustible resources which it afforded, as the great props of our greatness, we mistook the effect for the cause. To our constitution, and the manly confidence of every man in the success of his own industry and exertions, which it inspired, were we indebted for our trade, and not to our trade for our constitution. To attempt to increase the revenue, by injuring the constitution, was like taking from the foundation to mend the roof, like digging up the roots of a tree, instead of lopping its boughs.—Having said so much on his propositions, he should only beg to be heard in explanation, at the close of the arguments which were to be urged against them. He should move no resolutions on the papers before the House, but propose to refer them to a select committee of independent members, who were neither in office, nor candidates for being in office. He meant no reflection on the former committee; but he could not think it creditable to the minister to have his statement of the finances examined and approved by a committee of his own friends. No eloquence was required in a matter of plain calculation, as figures did not want to be set to music. The matter might now be decided by fair arbitration between him and the chancellor of the exchequer; and a committee of the whole House, in 1763, had agreed to refer the public accounts to just such a select committee as he proposed. Such gentlemen as were satisfied that there was an annual surplus of a million, after paying all ordinary and extraordinary expenses, such gentlemen as had heard the chancellor of the exchequer declare that there would be no necessity for a future loan, might go into the country, and tell their constituents, with confidence, that the finances were in a prosperous state, and that further taxes were not to be dreaded. Those who had not received this satisfaction, would neither discharge what they owed to their own characters, to their country, or their constituents, if they did not vote for a complete investigation, late in the session as it was. He should venture to propose the names of fifteen gentlemen, such as he had described, none of whom he had consulted, but who, he was fully persuaded, would all be ready to bestow a little of their time, and but a little would be necessary, on so important an inquiry. Of the fifteen, eight were gentlemen who usually voted with the minister, and by their decision in all that he had stated, he was ready to abide. If the chancellor of the exchequer declined meeting him on such fair ground, the public would readily assign the motive.—Mr. Sheridan then moved, "That a committee be appointed to inquire into the state of the public income and expenditure, the progress actually made in the reduction of the national debt since the year 1786, and into the grounds on which a reduction of the same may be expected in future, and to report the same, with their observations thereon, to the House;

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and that the said committee do consist of Henry Bankes, esq., Daniel Parker Coke, esq., George Dempster, esq., William Drake, jun. esq., William Hussey, esq., sir William Lemon, bart., James Lowther, esq., James Martin, esq., Mr. Alderman Newnham, Edward Phelips, esq., Charles Anderson Pelham, esq., Thomas Stanley, esq., sir George Augustus William Shuckburgh, bart., Mr. Alderman Watson, and the earl of Wycombe."

Mr. Secretary *Grenville* begged leave to assure the House, that if he rose for the purpose of answering the hon. gentleman, it was not from any anxiety in him to come forward, as thinking himself of more consequence than any other member of the committee. He trusted that the House had not found in him any anxiety to assume such unbecoming superiority, but as having been the person who brought up the report of that committee, he had stood forward more than once, and he felt a particular anxiety to be present that day, because he had often to combat the hon. gentleman's arguments contained in the report of 1786. If it were merely a personal question between the hon. gentleman and himself, he should feel indifferent upon the subject, but it was a question of a much more important nature, and from the sort of reasoning which the hon. gentleman had that day held, the whole of his argument tended, in his opinion, to give a false impression of the state of the finances to the people without doors, and to hold out a delusion, which, he was confident, had not the smallest foundation. He felt, with the hon. gentleman, that truth and accuracy ought to be adhered to in every public discussion; but if it ought at any time, it ought most particularly when the public accounts were under consideration there, and the revenues of the kingdom were stating in the House of Commons. To withhold truth on such an occasion, was, in his opinion, not merely blameable; it was highly criminal, and he declared, in the most solemn manner, that he did not believe himself capable of such wickedness. Upon the present occasion, he protested he would not wilfully omit any part of what the hon. gentleman had said, but would endeavour to follow the arrangement he had chosen. The hon. gentleman had grounded all his arguments on an average of three years, including the years 1786, 1787, and 1788; whereas he should ground his arguments on an average of two years only, the years 1787 and 1788, and that mode of estimate appeared to him the best, considering all the circumstances of the times, and he might say the only mode by which they could form a fair average of the income of the country; the income of one of these two years was 15,600,000*l.* and the other 15,400,000*l.*; taking these two together, the whole of the permanent income was calculated to produce 15,500,000*l.*, whereas it would be found, upon the average of the two last years, the amount was 15,578,000*l.* which was 78,000*l.* more than had been calculated would be the permanent income in 1791. He had omitted to take the year 1786 into his average, because it being the year when it was known that there was a commercial treaty with France in negociation, there was a general stagnation of trade, and thence it was not a fair year to be referred to, as any sort of rule by which to decide the amount of the national income. The hon. gentleman had calculated from the termination of a destructive and ruinous war, which, for the first time in his life, he had heard called glorious. Mr. Grenville went into a detail of all the particulars referred to by Mr. Sheridan under the heads of deficiencies, extraordinary expenses, and probable resources. A few days after the report had been brought down in 1786, it had been discovered, that the committee had made a mistake respecting the produce of the medicine duty; to that mistake he had at the time pleaded guilty, and he did then plead guilty. Other deficiences had been since made by the alteration of tax bills to a considerable amount, for the sake of public accommodation, in particular one in the horse tax, in favour of the farmers, a description of men, who, in his mind, were well entitled to it; but that alteration took away near 40,000*l.* of revenue. Another deficiency was occasioned by the regulations of the distillery, to supply the place of which in some measure, a duty on licences had been granted. He had to state the sum of 200,000*l.* arising from those extraordinary resources which the hon. gentleman, in a speech in a former session, had thought proper to slur over and treat with derision. With regard to the public income, the committee had already passed their trial, and it was decided in their favour, the amount already considerably exceeding what was estimated to be its amount by the year 1791. As to the

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public expenditure, they were still on their trial; but he had no doubt that they would come off equally triumphant. He begged, however, to have it recollected, that neither he in the name of the committee, nor the committee, had pledged themselves that the several services should not, in point of expense, exceed the amount stated. From the best information the committee could procure, they trusted there would be no occasion for a larger peace establishment than the estimate stated. It was true, that this year there was an addition of 100,000*l.* to the army; but if it was thought right to have foreign alliances, he trusted that a necessary degree of expense would not be grudged, occasioned by an addition to our army, to enable us to fulfil our engagements in consequence of our treaties with foreign powers. That 100,000*l.*, he conceived, would be permanent. Other expenses of the present year would not be permanent. The navy had certainly cost more than had been estimated in 1786, but when it was considered what an account they had lately heard of the present condition of our navy, and of the quantity of stores in our dock-yards from the highest authority, he was one of those who were so far from repining at the extraordinary expense, that he professed himself to be happy that the money had been so expended. With regard to what their general peace establishments would be, the House must recollect, that they were not arrived at the period when the committee had estimated that their peace establishments would find their level; when that period should come, they would, doubtless, judge of the exigencies of the times, as at present, and govern their establishments accordingly. So far was there, however, any reason to feel jealous of the present state of the expenditure, that he feared, if any gentleman on that side of the House was to state what were the circumstances of 1786 and what had happened since, he would be accused of vanity, and of wanting to claim what was too evident not to be voluntarily admitted. The hon. gentleman had taken the ordnance in his way with the other services; he knew of no addition to the ordnance expenditure but a small one, the necessary consequence of an increase of the army. He had next gone into a considerable detail of the miscellaneous services; but he did not think it necessary to follow him, because he could not undertake to pledge himself what might be the miscellaneous services under particular circumstances. No person would attempt to say there might not arise circumstances of a similar nature to those during the American war, which would make a permanent article of the charge at this time incurred for miscellaneous services.—Mr. Grenville said, he had been one of those who had expressly stated, that it might be necessary to raise a loan, but that it would be more proper for the country to have first a surplus to proceed to the operation of reducing the national debt. If they had waited for several years then they could not do more than to make some provision for it, whereas some was already paid off. The committee did not mean to pledge themselves, that in so many years they could supply enough to continue the plan out of the extraordinary resources. The loan had been made for the service of the current year; the hon. gentleman, therefore, had not done fairly, when he took this year's loan, and opposed it to the expenditure of the preceding year. Mr. Grenville said, he asked not now for the indulgence, but he claimed the justice of that House, when he desired them not to countenance a measure which was founded on an idea of the falsehood of those calculations which he had proved to be true. With respect to the income and expenditure, they still stood in a way likely to fulfil the estimates stated in the report. The income had already risen above the estimate given for the year 1791, and he had no doubt but the expenditure would do the same.—He wished to state one thing more, because it was of more importance for the House to inquire into, than the report of any committee, and that was, the progress which had been made towards reducing the national debt: 3,250,000*l.* had actually been paid off, and by the 5th of January next, so much more would be paid, that it would amount to 4,180,000*l.* Mr. Grenville said, he was against the motion, not from the lateness of the session; for if it was proper to pass, it was of such importance that they ought to sit at any time of the year to pass it. He never, therefore, would urge an argument so grounded, and he hoped it would not be urged by any gentleman; his objection was, because he was convinced, that the statements in the report of 1786 were accurate, and that therefore they ought not to be sent back for revision to another committee.

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Mr. *Fox* said, that under the conviction of his inability to afford the same instruction and entertainment as the two last hon. gentlemen, he should have remained silent had not the business struck him in a different point of view from any in which it had hitherto been examined. The right hon. secretary had argued in a manner that appeared to him to be rather extraordinary. He had said, "I know I am right, therefore let me deprecate a committee, where alone it can be proved whether I am right or not, and I beg you to rely on my assertions." Mr. Fox said, that where there was the opposition of assertions from different gentlemen it was extremely difficult to act, but he could not help being inclined to rely on the statement of his hon. friend. He perceived that there were two grounds of difference between the statement of his hon. friend and that of the right hon. secretary; the first of these was, that his hon. friend had rested his calculations on the average of three years, and the right hon. secretary had rested his arguments on an average of two years only. Of these two he liked an average of three years best, because all averages were the better the greater the number of years they included; but it was a curious reason that the right hon. gentleman had assigned for omitting the year 1786; it was because trade had been in a state of stagnation during that year, on account of the commercial treaty then pending with France. That was the very reason why the year 1786 should have been included; for it was admitted that the imports in the year 1787 had risen very considerably. Those imports clearly were what belonged to the year 1786, and would have been then made but for the commercial treaty. So that the year 1787 might be said to have in its pocket a considerable sum, the property of the year 1786. The right hon. secretary had thought proper to observe, that he suspected the 100,000*l.* for the army would be a permanent establishment. If so, it made a difference of 200,000*l.* in addition; because, if the House had voted 100,000*l.* expenditure, the chancellor of the exchequer ought to have provided an adequate aid of 100,000*l.* income, and not having done so it was an addition to the national debt of 200,000*l.* in time of peace.—Mr. Fox took notice that the right hon. secretary had said, the day was not yet come when the estimate of expenditure was to be looked for as the level of the peace establishment, nor would it arrive before the year 1791; and therefore the addition of 100,000*l.* for the army was not to be found fault with. Was it meant, then, that the national debt was to be loaded as much as gentlemen on the other side pleased in the interim? The definitive treaty of peace, he believed, was signed in 1783, and in the interim, between the conclusion of the peace and four years following it, were we to borrow what we pleased? He desired to know if that was so understood? There was a great difficulty in proving these expenses to be only temporary, and he shrewdly suspected that they would prove permanent.—The argument of the right hon. secretary, relative to the cause of the increase of the army had been fallacious. He had asked, if we entered into foreign alliances, ought ministers not to be enabled to keep faith with their allies? Most undoubtedly they ought; but the 100,000*l.* was not wanted on account of the Hessian treaty;] it was for the sending additional troops to India and the West India islands. Besides, that was, he believed, the first time that ever it was deemed necessary to increase the army on account of foreign alliances. A contrary doctrine had ever prevailed; the stronger your strength by alliance, the less the necessity for a large army. Every man knew that alliances were less likely to increase the army than the navy. But he chiefly disliked the fallacy of ministers in affecting that they had a surplus over and above their establishments. Had they come down to that House in 1786, and said, to use a vulgar phrase, "We can barely make both ends meet, and have not enough for surplus, therefore we cannot yet proceed to provide for paying off the national debt," he should have applauded their conduct, and have answered, that they thought too lowly of the resources of the country, and could and might, by imposing additional burthens on the people, which it was their duty to do, furnish a surplus. Then their conduct would have been manly and honest.—The right hon. secretary had observed that his hon. friend had ridiculed the extraordinary resources of the preceding session. Now, his hon. friend, he believed, had only ridiculed such of them as were extravagantly disproportioned to the object which they were proposed to meet. He certainly had not ridiculed them all. He did not, for instance, ridicule lotteries, and had

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never disputed the fact, that four lotteries at 150,000*l.* profit to government, would yield 600,000*l.* in four years. He had, indeed, arraigned lotteries as a source of revenue, unless in cases of great exigency, and condemned them as destructive to the morals and integrity of the people. Mr. Fox observed that this was one of the very few points in which he differed from his hon. friend. He was not yet prepared wholly to object to lotteries as a means of revenue, and an object of taxation. He repeated, that it was the fallacy of the arguments of gentlemen on the other side that he complained of, since, in respect to the miscellaneous services, every act of administration showed that they were likely to be increased rather than reduced.—Mr. Fox spoke again of the amazing increase of the navy debt, and remarked that the right hon. secretary had said, "We have a fine navy, and no man can speak of the expense with regret and sorrow." No man doubted it; but it went not in the least to the argument. What they had all heard, he hoped, would make that House a little more cautious how they relied too implicitly on the statements of ministers in future. Without meaning to dilate on what had fallen from his hon. friend, he declared that of all the admirable things he had heard him say in that House, none had excited his admiration more than some of his observations upon the operation of the national debt on the constitution. He asked, was the right hon. secretary ready to answer his hon. friend's question on the subject of the omission of new taxes? The minister who did not consider unforeseen expenses as a great part of his expenditure, would be much deceived. Mr. Fox spoke of the debts, and particularly of that due to the American loyalists, who had every claim to their generosity and their justice. They held national bonds upon the good faith of parliament, and must be satisfied. With regard to the million borrowed, that was an additional annuity, and so far an addition to the debt, for, in fact, we owed no capital but only annuities.—Mr. Fox pressed the House to go to a committee with the accounts, in order to decide what was the income, what the expenditure, and what the state of the debt. It had been said to him, "Do you compare the situation of this country with that of France." Heaven forbid that he should! But we might take warning by the situation of France, not to delude the people of this country as to the state of their finances. It might be true, that with regard to the finances of France the people were deluded as to millions, when this country could only be deluded as to thousands. A committee would remove all doubts, and put an end to error. He believed that there were some who heard him who would rather have the constitution of this country joined to the finances of France, than the constitution of France joined to the finances of this country. Let us take warning by what was to happen there! The ruined finances of France might produce the freedom of France! Let us take care that the abuses of our public credit did not produce the ruin of our constitution, and entail slavery upon us! Their financial deceit was engrafted on arbitrary power; our public credit on our free constitution. In France it was the deformed son of an accursed parent, who would restore freedom by committing parricide.

Mr. *Pitt* said, that there was not a friend to the liberties of this country who did not join in the sentiments with which the right hon. gentleman had closed his speech. The sort of manner, however, in which the hon. gentlemen had clothed their arguments, looked as if they were over sanguine in their opinion of their effects. The right hon. gentleman, he observed, had been lately much conversant in criminal prosecutions; and therefore, he asked him, whether he had met with any thing which induced him to be of opinion, that because he moved for a committee there was nothing more needful than for any man to rise up and boldly to make some taunting charges, mixed with much invective against any given statements? Mr. Pitt contended that all the leading facts were ascertained, and that the difference between them was reduced within so narrow a compass that the House was as fully able to decide them that night as a committee could possibly be at any other time. He then went through the detail of the various articles of revenue, expenditure, and debt, reasoning upon and combating the various arguments which had been urged. He repeated that there was no question between them that might not be decided without a committee, full as well as with one; no defiance therefore, should induce him to consent to the appointment of such a committee.

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Mr. *Sheridan* declared, that he really believed no language, nor any defiance which words could convey, would induce the right hon. gentleman to put himself into a situation in which he might be detected. The right hon. gentleman had not removed one suspicion, nor in the least cleared the matter from doubt. With respect to his having stated the present million to be obtained by the tontine, as being yet to be applied, he was ready to admit it, if the right hon. gentleman would assure him that another loan would not be required next year. This was what he knew the right hon. gentleman would not do. He could not pledge himself to any such promise, for he knew too well that he must borrow another million next year, in order to apply it to the discharge of a million of the unfunded debt. With regard to the million issued of exchequer bills, what was this but borrowing a million of unfunded debt, to discharge a million of funded debt? This was borrowing with one hand to pay with the other.

The motion was negatived without a division.

Debate in the Commons on the East India Company's Petition to enlarge their Capital.] July 1. A Petition of the East India Company was presented, setting forth, "That by means of the expenses incurred by the petitioners in the East Indies during the late war, in consequence of which, bills to a great amount have been drawn upon the petitioners in England, some of which have been paid, and others will become due in the course of the present year, and, by means of a part of the debt in India incurred in the late war being agreed to be brought home, and paid in England, by bills of exchange, which will become due in future years, a very great demand hath been, and will be, necessarily brought upon the petitioners' treasury in England, beyond what the petitioners, by their ordinary resources, and the powers heretofore granted to them by parliament, will be enabled to pay; and that the petitioners are desirous to raise such money as shall be deemed necessary to be raised for present purposes by an increase of their capital stock; but they cannot raise the same, in that or any other mode, without the authority of parliament: and therefore praying the House to take the premises into consideration, and to make such provision thereupon as to the House shall seem meet."

July 13. The House having resolved itself into a committee on the said petition,

Mr. *Dundas* rose and said:—In the absence of my right hon. friend (Mr. Pitt) it becomes my duty to propose a resolution to the committee, in consequence of a petition from the East India company, praying relief from some embarrassments they suffer in the conduct of their affairs, and suggesting, that this relief should be granted, by permitting them to make an addition of one million to their capital. If the relief prayed for at all merits the favourable attention of the committee, I do not conceive there can be much difference of opinion in agreeing, that the mode suggested is preferable to any aid that could be obtained by adding to their debt, without adding to their capital. In the former case, the nature of the proposition would be, that they would obtain their relief, and carry on their trade, upon the fortunes of other people: by the latter, they propose to trade upon their own effects; and if any loss is ultimately sustained in winding up their affairs, that loss falls upon themselves, and not upon those whose credit they might obtain in a different form. If the proprietors of India stock were to be viewed merely in the light of an associated body of merchants, unconnected with the general interests of the country, it might be urged with some plausibility, that the observation which has just been made, in a great measure supersedes the necessity of a very minute investigation of the proposal in question; but when it is considered that the interest of the East India company is interwoven with very important public concerns, and that the property of individuals concerned in that trade may, with great propriety, be considered as under the immediate guardianship of the legislature, by whose authority they are incorporated, it behoves any person who brings forward propositions, of the nature I am about to submit to the consideration of the committee, to show that the proposition is not founded on false and delusive grounds, but that the proprietors and the public are in perfect safety to act upon the resolution, if it shall be adopted, and that the extension of the capital has for its object considerations of national importance.

In the statement I am about to lay be-

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fore you, I shall cautiously avoid every thing doubtful and exaggerated; and as it is the fashion with some gentlemen to hold in derision all estimates from the India-house, I shall not detain the committee with any discussion of that nature, but briefly inform them, that I shall proceed upon actual realized accounts in my present statement. Thus, for example, although I have proved upon a former day that there is a disposable surplus revenue in India, exclusive of exports and certificates, exceeding 960,000*l.*, I mean not on the present day to take from it, for the purpose of investment, more than 650,000*l.* In like manner, I take the produce of the sales, both from India and China, not upon any exaggerated or ideal estimate, but agreeable to an actual amount, upon an average of the three last years. By that average the amount was 4,599,225*l.* I mean to take the gross sales at 4,700,000*l.*, that is 100,775*l.* more, because the average of the first two of these years was 4,770,579*l.*; and it is notorious that there was a deficiency in the last year's sale, owing to an accidental want of Bengal and coast piece goods, which there is no reason to apprehend in future.

In another respect I mean to bring forward the present question in the most unfavourable point of view for my own argument. Although the East India company were not to be favoured with a renewal of their charter, and although it were to be deprived of all interest in the territorial revenues posterior to that period, still they must remain an incorporated company, against whom no exclusive right can be granted, and of course have it in their power to continue a great commercial company, possessing advantages by their long establishment, which no new adventurers could hope for a long time to enjoy. Notwithstanding this, I mean, in my present statement, to wave all argument founded on circumstances of that nature; and I will argue this proposition on the supposition that they were finally to end all their commercial concerns in 1794, and even in that view, I have no hesitation to maintain, that the present relief may be wisely and safely granted.

Having troubled the committee with these preliminary observations, I shall now direct their attention to such accounts as may be necessary for their information on this business. The first account to be attended to is a statement of the debts and effects of the East India company, in England, on the 1st January 1788 and the 1st of January 1789. By that account the debts of the company amount to 14,548,490*l.*, and their effects amount to 12,531,848*l.*, leaving a deficiency of 2,016,647*l.* But, in order to draw any conclusion from this account, as applicable to the present question, several explanations are necessary; and I begin with making several deductions from the state of effects. The first which occurs is the sum of 1,414,425*l.*, being the cargoes from England not arrived in India and China. This sum cannot be considered as belonging to the company in the year 1794; for as the whole of the present statement goes on the supposition of their trade ending, and their affairs being wound up at that time, no goods will be afloat during the last year of the charter. In the next place it must be observed, that on the debit side of the account no notice is taken of a debt of 500,000*l.* claimed by government and therefore that must likewise be taken into computation as a deduction from the amount of their effects. Again, as it is my professed purpose not to countenance any exaggerated or doubtful statement, in support of the resolution I am about to move, I cannot pass unnoticed the three last articles in the account of effects made up by the company: for although I do not mean to pass any decision on the justice of those claims, the circumstance of their being so long claimed without being realized, is ground sufficient for me to place no reliance upon them, in a statement where nothing is meant to be admitted, but what is fairly justified. These three articles amount to the sum of 422,011*l.* The three articles above stated when added to the deficiency of 2,016,647*l.* makes the deficiency, in 1794, amount to the sum of 4,353,083*l.*

It is next to be examined, by what addition to the other side of the account, in the year 1794, this balance can be discharged. The first article is the profit of the company's trade for four years, from 1790 to 1794; for ascertaining which the following explanation will be attended to. It has been already mentioned, that the gross sales of the company are taken in the present statement at the sum of 4,700,000*l.* It has been usual to calculate the prime cost at one half of the sale amount; but instead of taking it at half

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the sale amount, which would be 2,350,000*l.* I shall, to prevent all cavil, take it on the high prices of last year, which from later advices are known to have been since very considerably reduced. This will amount to about 2,610,000*l.* Of this prime cost only 650,000*l.* is calculated to arise from the India revenues, and therefore the remainder, being 1,960,000*l.*, is to be provided from home, either by bills, certificates, or exports, and therefore falls to be deducted from the produce of the sales, and leaves 2,740,000*l.* From this is to be deducted customs, freight, and charges of merchandize, which upon a sale amount of 4,546,900*l.* are stated to amount to 1,541,769*l.* But as the sales are now estimated to amount to 4,700,000*l.*, the charges must, in proportion, be taken at about 1,625,000*l.*, and this leaves a nett profit of 1,115,000*l.* To this is to be added the profits the company receive from the private trade, amounting to 70,000*l.* Total profits 1,185,000*l.*

From this is to be deducted the following sums: interest on annuities 90,000*l.* Do. on bonds 128,000*l.* Dividends on stock 400,000*l.*, making 618,000*l.* Deduct from this the sum received from government 126,000*l.* There remains 492,000*l.*, leaving a nett annual profit of 693,000*l.* This for four years, from 1790 to 1794, amounts to 2,772,000*l.* To this is to be added the profits of the trade of the present year 1789. The nett sale amount, after defraying the charges of customs, freight, &c. is stated to amount to 3,005,131, from which making the same deduction of prime cost, annuities, interest on bonds and dividends, there remain 553,131*l.* To which add private trade 70,000*l.* These two make an addition of 623,131*l.*, which added to the profits before stated, amounts to 3,395,131*l.*

Upon the same principle as 1,414,425*l.* has been deducted from the amount of effects in 1789, there must be added to the amount of effects in 1794, 1,960,000*l.*, being the prime cost of goods, so far as provided from funds at home. The sum total is 5,355,131*l.* To this must be added the whole of the last year's nett Indian revenue for the year 1793. If by that time the debts have been all tranferred, there is no doubt but that the surplus must amount to a sum of 1,500,000*l.* at least; but I shall not take it higher than 650,000*l.* Amounting in all to 6,005,131*l.* From this sum is to be deducted the deficiency before-mentioned of 4,353,083*l.* There remains a surplus of 1,652,048*l.* which would fall to be divided among the proprietors, in addition to their original capital of 4,000,000*l.* But, from all I have stated, it must occur to the most superficial observer, that not only the original capital, with this addition, but an immense sum more, would belong to the proprietors. I have made no allowance for all the property they would leave in India, consisting both of quick and dead stock. Neither have I taken any notice of the interest they have in the territorial revenues. Whatever may be the determination respecting those revenues, it is clear to every person that the interest of the company must be considered, either by actual possession of them, or by a just compensation in some shape or other, all which must belong to the proprietors of India stock: and therefore when I talk of restoring the capital, with an addition of only (1,652,048*l.*), I certainly state that interest infinitely below the mark; and threfore can have no hesitation in recommending the proposed resolution to the committee, being fully satisfied it is beneficial to the proprietors and salutary to the public.

It will be adverted to, that the additional million to be borrowed this year has not been taken into this account, further than by providing for the dividend thereon at eight per cent.; because the debts are supposed to be as much decreased on one side of the account, as they would be increased on the other; and therefore whatever sum that additional capital may sell for, is in this estimate expected to be fully repaid to the purchasers. I have only further to observe, before sitting down, that in what I have stated, I have made no provision for the six millions of debt supposed to be transferred from India, because all I have said is founded on a supposition that a new arrrangement respecting the territorial revenues must take place previous to 1794; and it must be obvious to every person, that the debt thus tranferred must follow the revenues, and be a burthen upon them, in whatever hands the collection and administration of them may be, in consequence of that arrangement.—Mr. Dundas concluded with moving, "That it is the opinion of this committee, that the East India company be enabled to raise a sum of money, by adding one million pounds, capital stock, to their present capital of four million pounds, so

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as to make their whole capital stock in future five millions; and that such addition be made by opening a subscription to the amount of the said million pounds, capital stock, at the rate of 170*l.* for every 100*l.* of such capital stock, or at such other rate as the court of directors of the said company, with the approbation of the commissioners of the treasury, shall direct; and that the subscribers to the same be declared entitled to the like profits, benefits, and privileges in respect thereof, as the proprietors of East India stock are, or may be, entitled to, in respect of their present stock."

Mr. *Dempster* conceived Mr. Dundas to have argued as if it was a decided point that the proprietors of East India stock had no claim on the revenues of their territorial acquisitions in India. The company had provoked government again and again to decide the question, and had said, "go with us into a court of law, and let us settle the point, where alone it can be settled." He thought the company had a good right to their territorial acquisitions; but if it were otherwise, their debts in India had been incurred by the wars abroad, and every shilling ought to be repaid them.

Mr. *Dundas* declared he had not said one word relative to the territorial acquisitions in India belonging of right to the company or not; but with regard to the charter's giving the company a right to the territorial revenues in India, he begged to decline giving any answer farther than to say, that he believed if the hon. gentleman would look to the charter, he would see that it did not contain a syllable relative to the right in question.

Mr. *Hussey* said, that the effects of the East India company were stated to amount to 5,392,000*l.* Their debts to 5,042,000*l.* This certainly left a balance in favour of the company; but he could not help differing from this account. The debts were estimated much too low; for this new loan which amounted to 1,700,000*l.*, and the two millions of debt transferred from India must be added; and then their debt would amount to 8,700,000*l.*, to discharge which they had but 5,392,000*l.* So that when their accounts were cleared in 1794, the period when their charter would expire, there would be a deficiency of 3,318,000*l.* For his part, he averred, that he would not trust his property on such security.

Mr. Secretary *Grenville* contended that there was a well-founded expectation, that when their charter should expire, the company would be able to pay all their debts, and that the territorial acquisitions in India would be a princely possession into whosoever hands they might fall.

Mr. *Francis* said, it was not only difficult to understand the calculations made by Mr. Dundas, but when understood, it was difficult to depend upon them. He could not see with what degree of propriety calculations could be made for the year 1794, when the statement of the company's debt in one year differed two millions and a half. They applied for a sum not exceeding one million, which money was to be raised on the public; this had been applied for in July, when it was not probable that it would meet with any opposition, in consequence of the absence of members. The company must have known their situation at an earlier period, and, of course, if they meant fairly, they should have applied for the loan at an earlier day. It was very extraordinary, that at a time when the right hon. gentleman was boasting of their enlarging their capital, that he should come forward to require a loan. It was a suspicious application according to his own arguments, and ought to be treated accordingly. Mr. Francis cautioned the House to have a watchful eye over the affairs of India. The day, he predicted, would come, when the public must claim satisfaction from the House, for whatever it might suffer by having a reliance on the credit of the company. It was not owing to any faith which it had in that, but purely from a confidence in parliament, that the public had ventured on pecuniary affairs with the company. It was strange, that at a time when they boasted of a prosperous trade, they should apply to parliament for an extension of capital. The fact was, that the last sales had fallen considerably short of the estimate of the preceding year; and, year after year, they had stated, since the last war, that the expenses incurred by it, occasioned their repeated applications to parliament.

The resolution was agreed to, and a bill was ordered to be brought in thereupon.

Debate in the Lords on the Bill to commemorate the Revolution.] July 23. On the motion for the first reading of this bill,

The Bishop of *Bangor*, having remarked

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that all the lords with whom he had conversed were of opinion that this bill ought to be opposed at the first reading, added, that he would give such reasons as occurred to him, on a sudden, why this bill could not, with propriety, be suffered to pass into a law. He observed that such a bill was totally unnecessary, as the great event of the revolution was in a very particular manner taken notice of every year in the service of our church, for the 5th of November. He then remarked, that it was judicious to couple this event with that of our deliverance from the gunpowder plot, as we were saved in both cases by signal instances of God's good providence, from Popish tyranny, and arbitrary power. The bishop said, that this great event was mentioned in one long prayer, which was drawn up on that occasion, and added to the service of the day; and besides this, notice was taken of it in two or three other places. He next remarked that the introductory sentences were all added on account of the revolution, and and also the hymn instead of the *Venite Exultimus*. He farther said, that there were other very material alterations and additions, in order to adapt and accomodate the service to the commemorating of so great a blessing as the revolution had proved; and then he observed, in general, that the service was drawn up with great gravity and wisdom, and was as unexceptionable a service as any in the whole book of common prayer; and no wonder, as it was drawn up by those very divines who had contributed more than any other order of men in the kingdom, towards bringing on the revolution by their matchless writings against arbitrary power and Popish superstition. The statute, called the bill of rights, was ordered by this act to be read in our churches once a year. This the bishop much disapproved of, and gave several reasons why he thought it higly improper. These were the reasons which occurred to him, on the sudden, as he did not know till that moment that the bill had been brought up from the Commons; and not being willing to take up any more of their lordship's time, he moved that the bill be not read a first time.

Earl *Stanhope* expressed his astonishment that a protestant bishop should be against returning thanks to Almighty God, for our deliverance from Popish tyranny and arbitrary power, as all the rights and privileges which that right reverend prelate and the rest of his brethren enjoyed, were entirely derived from the revolution. He then observed, that the nation in general attended too little to this great event; and for that reason it was proper that a solemn day of thanksgiving should be appointed, in order to rouze the people into a due sense of the great blessings they enjoyed from this glorious and ever-memorable event. He found fault with the service of the church, appropriated for the 5th of November, as it stands in our liturgy, and thought it might be made more applicable to the subject of the revolution. He next read a sentence or two from the service of the 5th of November, and observed that we did not return thanks to God for the restoration of our liberties, but only because he made all opposition fall before the king—a foreign king, with a foreign army. He then complained very much of the indignity of the mode of opposing a bill at the first reading, and hoped that the reverend prelate would let the bill be read a first time, and then appoint a day for a second reading, when all parties would be better prepared to oppose or defend.

The *Lord Chancellor* begged leave to assure their lordships, that from long experience he knew that the right reverend prelate had as proper a sense of the great blessings which were derived from the revolution, as any member in that House, and was as ready to join in returning his sincere thanks to Almighty God for the deliverance which was wrought for us by that event; but notwithstanding this, his right reverend friend did not think it necessary that any other mode of returning our thanks, as a nation, was at all necessary, than what was already established; and the reasons which he had given for his opinion were perfectly satisfactory to himself, and would, he believed, prove satisfactory to the generality of their lordships. The service of the church, in which the event of the revolution was commemorated, was a very proper service for the occasion; and he thought the passage which the noble earl had quoted was particularly apt and proper, and did not lie open to any of the objections made to it. He could not, therefore, help being surprised at the noble earl's saying that in the present service we returned thanks to Almighty God, because all opposition had fallen before a foreign king with a foreign army. The right reverend

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prelate never spoke of the revolution in such terms as these; for he understood the subject too well, and had too just a sense of that glorious event, ever to use expressions of such a nature.

The Earl of *Hopetoun* observed, that the learned lord had delivered his sentiments with great dignity; but, at the same time, had treated the bill with great indignity, which he did not approve of, as he thought that it ought not to be opposed in this stage. For his own part he considered it as a good bill, and should vote for it in every stage.

On the question being put, 13 voted for the bishop's motion, and 6 against it. The bill was consequently rejected.

Weights and Measures.] July 24. Sir *John Riggs Miller* desired that he might be indulged for a few moments with the attention of the House. He said, that towards the close of the last session, he had given notice that in the course of the present session he should move for a committee "to consider and report the expediency of establishing one general standard of weights and measures, to be observed throughout the kingdom," but, for the present, he would merely trouble the House to assure them, that he had neither been wanting in diligence or assiduity, nor been sparing in expense to obtain every possible information upon this most important subject; a subject which, whatever feasible appearance it might present upon a cursory view of it, he had found, upon a closer examination, to be extensive, complex, and embarrassed, in an extraordinary and most unexpected degreee. He, however, had not shrunk from these difficulties, but had opposed to them every possible exertion of which he was capable. He had addressed a general circular letter to the chief magistrates of all the cities, corporations, and borough towns of Great Britain, soliciting their communications and assistance upon the subject of his inquiry, which had, by most of them, been complied with, with much liberality and instruction. He had endeavoured to obtain every publication which had appeared for a century past, as well as every law and regulation which had taken place within that period, not only in Great Britain, but throughout Europe, generally for the correction of abuses in weights and measures. That most industrious, able, and voluminous report of a committee of the House of Commons, appointed in 1758, "To inquire into the original standards of weights and measures, and to consider the laws relating thereto," had furnished him with an infinite variety of most interesting matter. To the liberality of individuals he was also indebted for more than a thousand letters, many of them of great extent, and entering into minute details of the mischief under consideration, stating particular local abuses (besides those more generally complained of) from the use of uncertain weights and measures, and accompanied also by the suggestion of regulation, and remedy for their mitigation or cure; and let me add (said he) which I cannot do unattended by my sincerest acknowledgments, that fifty-seven communities, each of whom send two representatives to this House, have already instructed, or have declared their intention to instruct, their members to attend upon and assist, with their best endeavours, the attempt for an equalization of weights and measures. When (continued sir John) we recollect that in no age or nation, of which any record exists, whatever may have been the state of its police, or the form of its government, from the most perfect republic to the most absolute monarchy, have any laws or regulations which have been applied to this object, proved adequate to the extinction of the abuses which have prevailed in the discordance of weights and measures; it must be obvious to every one how much time, and how much industry must be indispensably employed by that individual to obtain every light within his power, upon a subject which he stands pledged to this House, and to the public to bring forward in that shape which shall best promise efficacy and success. To methodize and to digest, in the best manner I am able, such a mass and variety of materials, in order to bring the subject before a committee in some form and shape, has fully occupied, and continues to give employment, to every diligence I can lay claim to. And if I am alive, and in this House, it is my decided intention to bring this matter before a committee early in the next session of parliament, when I trust my present endeavours will prove to that committee a saving both of time and of labour. Investigation and inquiry, even in the midst of perplexing difficulties, have rarely proved totally without profit: on the contrary, they have frequently been found useful and efficient

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beyond the hope or expectation of those who have had recourse to them. And hence the comparison may not always turn out a perfectly just one between the significancy of the agent and the magnitude of the undertaking. Every individual may, with honest intentions, contribute something to the mass of general benefit. I have acted independently in parliament. It has been my endeavour to be just as well as useful to individuals and to the public; my political opinions stand registered upon questions of great moment; and I contemplate them with unabated satisfaction. Should it be now my good hap to prove instrumental in mitigating or correcting those abuses which have so long and so virulently, prevailed throughout this country in the object with which I am at present engaged—abuses fertile in confusion to commerce, in injustice to the community, in distress and difficulty to the poor, I shall deem my political existence, whether it may be of long or short duration, not to have been afforded me in vain.

The Lords Commissioners Speech at the Close of the Session.] August 11. This day the parliament was prorogued by commission. On this occasion the following Speech was delivered to both Houses by the Lord Chancellor:

"My lords and gentlemen;

"We have it in command from his majesty to express to you the satisfaction with which his majesty has observed the continued proofs which you have given during the present session, of your uniform attention to the public business, and of your zealous concern for the honour and interests of his Crown and the welfare and prosperity of his people.

"Gentlemen of the House of Commons;

"His majesty has particularly directed us to return you his thanks for the readiness with which you have granted the necessary supplies for the several branches of the public service.

"My lords and gentlemen;

"Although the good offices of his majesty and his allies have not hitherto been effectual for restoring the general tranquillity of Europe, he has the satisfaction of seeing that the further extension of hostilities has been prevented, and that the situation of affairs continues to promise to this country the uninterrupted enjoyment of the blessings of peace."

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The parliament was then prorogued to the 29th of October. It was afterwards farther prorogued to the 21st of January 1790.

SEVENTH SESSION
OF THE
SIXTEENTH PARLIAMENT
OF
GREAT BRITAIN.

The King's Speech on Opening the Session.] January 21, 1790. His majesty opened the session with the following speech to both Houses;

"My lords and gentlemen:

"Since I last met you in parliament, the continuance of the war on the continent, and the internal situation of different parts of Europe, have been productive of events which have engaged my most serious attention.

"Whilst I see with a just concern, the interruption of the tranquillity of other countries, I have at the same time great satisfaction in being able to acquaint you, that I receive continued assurances of the good disposition of all foreign powers towards these kingdoms; and I am persuaded that you will entertain with me a deep and grateful sense of the favour of Providence in continuing to my subjects the increasing advantages of peace, and the uninterrupted enjoyment of those invaluable blessings which they have so long derived from our excellent constitution.

"Gentlemen of the House of Commons;

"I have given directions that the estimates for the present year should be laid before you; and I rely on your readiness to grant such supplies as the circumstances of the several branches of the public service may be found to require.

"My lords and gentlemen;

"The regulations prescribed by the act of the last session of parliament relative to the corn trade, not having been duly carried into effect in several parts of the kingdom, there appeared reason to apprehend that such an exportation of corn might take place, and such difficulties occur in the importation of foreign corn, as would have been productive of the most serious inconvenience to my subjects. Under these circumstances, it appeared indispensably necessary to take immediate measures for preventing the exportation and facilitating the importation, of certain

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sorts of corn; and I, therefore, by the advice of my privy council, issued an order for that purpose, a copy of which I have directed to be laid before you.

"I have only further to desire, that you will continue to apply yourselves to those objects which may require your attention, with the same zeal for the public service which has hitherto appeared in all your proceedings, and of which the effects have been so happily manifested in the increase of the public revenue, the extension of the commerce and manufactures of the country, and the general prosperity of my people."

Debate in the Lords on the Address of Thanks.] His majesty having retired,

Viscount *Falmouth* rose, and bespoke the indulgence of their lordships towards one who, though not in the habits of public speaking, ventured to offer himself to their notice on the present occasion, for the purpose of moving an address to his majesty, thanking him for his most gracious speech. His lordship then proceeded to discuss the several topics alluded to by his majesty, and to point out the propriety of manifesting their grateful sense of the various blessings enjoyed under the mild government of their beloved sovereign, who had lately been afforded an opportunity of observing the ardent affection which his subjects in general entertained for his royal person, and the confidence they reposed in his present ministers, in the course of his tour through a considerable district of his kingdom. His lordship followed the detail of his majesty's speech, and after mentioning the troubles abroad, paid a compliment to his majesty and the nation on their generous, though perhaps ill-deserved concern, for the interruption of the tranquillity of neighbouring countries. He took notice of the struggle for liberty that had been made in France, and thence deduced a proof of the excellence of the British constitution, which had not only rendered us the envy, but the object of imitation of foreign powers. His lordship was large in praise of the conduct of ministers in regard to the order of council issued for the prohibition of the exportation and the facilitating the importation of certain sorts of corn, and concluded with moving the following address:

"Most gracious sovereign;

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, beg leave to return your majesty our humble thanks for your most gracious speech from the throne.

"We are sensible of the importance of the events produced by the continuance of the war on the continent, and the internal situation of different parts of Europe, which have naturally attracted your majesty's most serious attention.

"We beg leave to assure your majesty, that while we see with a just concern the interruption of the tranquillity of other countries, we feel the truest satisfaction from the assurances your majesty has been graciously pleased to give us of the good disposition manifested by all foreign powers towards these kingdoms; and that we entertain, with your majesty, a deep and grateful sense of the favour of Providence, in continuing to these kingdoms the increasing advantages of peace, and the uninterrupted enjoyment of those invaluable blessings which your majesty's most faithful subjects have so long derived from our excellent constitution.

"We return your majesty our dutiful thanks for the communication which your majesty has been pleased to make to us of the reasons which induced your majesty to take such immediate measures as appeared indispensably necessary for preventing the exportation and facilitating the importation of corn; and for your majesty's gracious condescension, in directing to be laid before this House a copy of the order which your majesty, by the advice of your privy council, thought proper to issue for that purpose.

"Permit us, sir, to offer your majesty our humble acknowledgments for the gracious approbation which your majesty has pleased to declare of our former conduct; and to give your majesty the strongest assurances, that, animated by the same zeal for the public service which has hitherto directed our proceedings, and gratefully acknowledging the happiness and security which we experience under your majesty's auspicious government, we will diligently continue to apply ourselves to those objects which may require our attention, and may best contribute to the maintenance of the public revenue, the extension of the commerce and manufactures of the country, and the general prosperity of these kingdoms."

Lord *Cathcart* seconded the address, and supported the principles laid down by lord Falmouth. His lordship pointed out

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the very different situation in which the nation was placed at present, through the wisdom and prudence of his majesty's ministers, and that in which we stood during the American war: at that time we were labouring under all the difficulties of a limited and embarrassed commerce, an increasing debt, a drooping and damped spirit of trade, a chilling discouragement of our manufactures and a sinking and exhausted revenue; at war with nearly the whole world, and almost without a single ally; whereas, we had now formed alliances with some of the most powerful states on the continent, were in the full enjoyment of an uninterrupted peace, with its attendant advantages, an enlarged and enlarging commerce, an improving state of manufactures, an increasing revenue, and every prospect of continuing prosperity.

The address was agreed to *nem. dis.*

The King's Answer to the Lords' Address.] To the address of the Lords, his majesty returned this answer:

"My lords;

"I receive with great pleasure your dutiful and loyal address. The first object of my wishes being the prosperity of my people, I cannot but express my satisfaction at receiving such strong assurances of your disposition to apply your attention to those important objects which I have recommended to your consideration."

Debate in the Commons on the Address of Thanks.] The Commons being returned to their House, and his Majesty's speech read by the Speaker,

Viscount *Valletort* rose for the purpose of moving an address. He observed, that he never was more conscious of his inability, to warrant his intrusion either on the time or patience of the House, than at the present moment. Feeling, as he did, his great incompetency for the arduous task before him, and sincerely lamenting that such a charge had not devolved on a person of greater experience and ability, he assured the House that nothing could prompt him, on this occasion, to obey the impulse of his heart, but the well-known candour and indulgence of the House to all those who were not in the habit of public speaking, and the flattering expectation he had of the unanimous concurrence of the House in the motion he had the honour to make. He should, however, take up but very little of their time; as the facts stated in his majesty's speech were in their nature so plain, obvious, and satisfactory, that they required neither ingenuity to elucidate, eloquence to embellish, nor argument to convince. The speech of his majesty must yield, to every true lover of his country, the greatest pleasure and satisfaction, from a just view of our own happy situation, when contrasted with that of other European states. Our joy and gratification, however, must be allowed to suffer some abatement, from a sympathizing spirit with the calamitous circumstances of many other nations. At home, all was peace, happiness, and prosperity; but abroad, nothing but discord, commotion, and bloodshed prevailed. The continent was agitated with the distraction of foreign warfare, as well as the internal tumults of an ungovernable populace. Princes and subjects were at variance; established governments were subverted, and revolutions were daily taking place. These were facts, upon which he should not presume to comment at any length; at the same time, he could not well forbear glancing at the present unhappy situation of France. No province was altogether free from anarchy and confusion; the laws being extinct, and the constitution as yet unorganized, the capricious will of a licentious mob too often prevailed as law, and the most unexampled barbarities have been committed with impunity. The capital itself was not exempt from the ravages of a tumultuous populace; commotion, violence, and disorder frequently took place of harmony, order, and good government. The most distinguished had been obliged to withdraw from their country, and to seek an asylum among strangers; the whole empire being convulsed with the most dreadful anarchy and confusion; and to conclude the distressing scene, the king himself was almost a prisoner in his own palace. In the Netherlands, too, the standard of independency had been erected; and the inhabitants appeared determined to withdraw their allegiance from the sovereign whose sceptre they so long obeyed. If we directed our attention to the great empress of the North, we found her also involved with neighbouring powers in the horrors of fierce and bloody contentions. In the midst of this scene of general warfare and collision of opposite interests, foreign and domestic, we had the happi-

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ness to find, that all the northern powers agreed in their pacific disposition towards this country. Great Britain, therefore, stood distinguished among the European nations, by the felicity of her situation, when contrasted with other states. While discord, with all her direful train, stalked abroad, we were in the full enjoyment of profound tranquillity, with its concomitant advantages, at home. Our revenue was considerably increased; our manufactures prospered; and our commerce flourished in every quarter of the globe. We could not, therefore, but be sensible of our national felicity; and it was our duty to render to Divine Providence our most grateful acknowledgments for such distinguished blessings. We could not too much admire the parental care of his majesty, and the wisdom of his ministers, exemplified in the measure adopted to prevent the exportation of corn, at a moment when a scarcity of that necessary commodity was with some reason to be apprehended. The present general want of grain in foreign parts, was among those alarming evils consequent on the neglect of husbandry, through the political struggles now depending. His majesty and his ministers were therefore entitled to the gratitude of the House, for not confining their attention solely to the improvement of our revenue and the extension of our trade, but for having prudently taken effectual steps to avoid the serious inconvenience of so great a grievance as the scarcity of corn at home, by a timely publication of the order of council. Thus, the parental care of his majesty, and the attention of his ministers, had delivered this country from the great evils to which other nations were subject: whose miseries challenged our sympathy, while we were not sharers in their distress. Lord Valletort concluded with moving, "That an humble Address be presented to his majesty, to return his majesty the thanks of this House, for his most gracious speech from the throne.—To assure his majesty, that we participate in the just concern with which his majesty observes the interruption of the tranquillity of other countries: that we at the same time learn, with great satisfaction, that his majesty continues to receive assurances of the friendly disposition of foreign powers: that we entertain a deep and grateful sense of the favour of Providence towards these kingdoms, in continuing to us the increasing advantages of peace, and the uninterrupted enjoyment of those invaluable blessings which we have so long derived from our excellent constitution, and which we so happily experience under his majesty's mild and auspicious government.—That we shall proceed with cheerfulness to make such provision as may appear to be requisite for the several branches of the public service.—To express our sense of his majesty's paternal regard for the welfare of his people, manifested in his anxiety to prevent the further exportation of corn, and to facilitate the importation under the circumstances which his majesty has been graciously pleased to communicate to us; and to return his majesty our thanks for having been pleased to direct a copy of the order, issued by his majesty, by the advice of his privy council, to be laid before us.—To assure his majesty, that we shall uniformly continue to apply ourselves, with unremitting assiduity and zeal, to those objects of public concern which may require our attention; and shall be at all times desirous of adopting every proper measure for maintaining the public revenue, and encouraging the commerce and manufactures of the country, as being essentially connected with the general prosperity of his majesty's dominions."

Mr. *John Fenton Cawthorne* seconded the motion. He said, he felt the greatest degree of happiness at the flourishing state of the British empire, the increase of its revenue, the uninterrupted prosperity of its commerce; and its enjoyment of profound tranquillity. As the several topics adverted to in his majesty's speech had been so ably discussed by the noble mover of the address, he should content himself with avowing his approbation of the motion, and giving it his hearty support.

Mr. *Pitt* requested the indulgence of the House, while he made a few remarks on the order of council relative to the exportation and importation of corn. From the reasons there had been to apprehend that there might be such exportation of corn, which might be attended with great inconvenience and detriment to his majesty's subjects, those who had the honour of advising his majesty, thought it their duty to recommend the measure that had been adopted. At the same time, he was ready to admit, that though the proceeding in question was not strictly legal, yet the necessity of the

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case had justified the irregularity of the proceeding; and that in reliance on the candour of the House to grant a bill of indemnity. Lest it should be conceived, however, that his majesty's ministers thought their conduct, in respect to the proclamation alluded to, strictly legal, he had considered it incumbent on him to state these particulars to the House the first opportunity that offered.

Alderman *Sawbridge* was extremely happy to hear what had fallen from Mr. Pitt on the subject of the order of council, and hoped the ministry might be able, at a proper time to justify their conduct in this proceeding: but to the mode adopted, respecting the exportation of corn, he had strong objections. If parliament passed a bill to answer a certain purpose, and in its operation it was found inadequate and defective, the remedy ought not to be by an arbitrary proclamation from the Crown. The grievance might be redressed in a constitutional manner: the parliament might have been called, and a new law enacted: then there would have been no necessity for any proclamation, nor could any unconstitutional irregularity then have been practised. He wished this matter to be cleared up to the satisfaction of the House.

The address was unanimously agreed to.

The King's Answer to the Commons' Address.] To the Address of the Commons his Majesty returned the following Answer:

"Gentlemen; I thank you for your very loyal and dutiful address. It is with great satisfaction that I receive the repeated expressions of your affectionate attachment, and the assurances of your continued attention to these objects which are essentially connected with the happiness and prosperity of my people."

Slave Trade.] Jan. 25. Mr. *Wilberforce* having moved, "That the proceedings of that House of the 23d of June last be read," and the same having been read by the clerk, he observed, that in his present proposition, he was actuated rather by a desire to accommodate other gentlemen, than any wish to gratify an inclination of his own; and therefore was it that he should beg leave to move, "That this House will, on Wednesday next, resolve itself into a committee of the whole House, to consider further of the circumstances of the Slave Trade, complained of in the several petitions which have been presented to this House, relative to the state of the African slave trade."

Mr. *Gascoyne* was astonished at the motion, because it carried with it the appearance of a design, to precipitate so important a motion, as that which had been avowed to be the object of bringing the farther consideration of the slave trade before a committee of the whole House, namely, to refer the examination of evidence to a committee above stairs. The question, though a question of mere form, was one of very serious importance. Towards the close of the last session, a right hon. gentleman, not then in his place, had stated that, in his idea, the best means of proceeding would be through the medium of a committee above stairs. Mr. Gascoyne said he had declared at the time, that he had strong objections to changing the course of proceeding that had been adopted; and the more he had since turned those objections in his mind, the more he felt their force, and was convinced that it would be exceedingly improper to refer the examination of witnesses and the hearing of evidence, to a committee above stairs. He did not, however, intend to argue that question then, unless he was obliged to make it an object of immediate discussion. When he had heard on Saturday that the hon. gentleman meant to bring on the business upon the present day, he had taken the liberty of begging the attendance of a number of gentlemen, members of that House, who had expressed their sentiments on the subject of the slave trade in former sessions, and they had done him the honour to attend numerously. At the meeting held that day, only one gentleman present had expressed a doubt of the propriety of objecting to the proposed motion for referring the examination of witnesses to a committee above stairs; he might therefore say, that the meeting was almost unanimous in opinion that the motion ought to be resisted, and that the examination of witnesses should, if possible, be had in a full House. If the motion for a committee of the whole House stood for the next day, or the day after, the first thing to be done in that committee would be to bring on the important question, whether the subject should be sent for farther investigation to a committee above stairs? On that there might be much difference of opinion. He

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did not know of any precedent for such a change of proceeding upon so very interesting a topic. It was a great doubt with him, whether it might not be establishing a precedent pregnant with much future inconvenience; he must therefore protest against any thing that bore the appearance of taking the House by surprise. He should therefore move, to leave out the words "Wednesday next," and insert the words "Thursday sevennight."

Mr. *Wilberforce* said, it was not intended by his motion to take the examination of the witnesses out of the hands of those gentlemen who had hitherto conducted it, but merely for the sake of convenience, to let those very gentlemen who had hitherto attended and examined the witnesses in the House, attend and examine them up stairs, where they might, without having their attention distracted by other objects, proceed from ten in the morning till three in the afternoon, and if they chose it, in the afternoon subsequent to the rising of the House. This mode of proceeding must necessarily expedite the investigation, and, at the same time, as every member would have access to the committee, and a right to share in their proceedings, and as the minutes of the committee might, from time to time, be brought down and printed, the House would be able to judge of the force of the evidence progressively, and counsel might also prepare their opinions and arguments upon it. With regard to taking the House by surprise, the House had last session pledged itself by a resolution to enter upon the consideration of the subject early in the present session, and he had, on Friday last, given full notice of his object in moving for a committee of the whole House. To desire, therefore, that he would delay his motion, appeared to him so unreasonable a request, that he did not think it proper to comply with it.

Mr. *Gascoyne* said, it was not the going into a committee of the whole House that he objected to, but the precipitate decision of so important a question, as a proposition to change the course of their proceeding, and refer the conduct of the examination of witnesses to a committee above stairs. Delay was not his object: he had no objection to going into the committee of the whole House on Wednesday, provided they would consent to proceed with the examination of witnesses in the committee of the whole House, and reserve the important question of appointing a committee to sit above stairs till Thursday se'nnight.

Mr. *Fox* wished to know what more notice could be given of any public business, than a vote of the House itself, that it would, early in the next session, take such a specific business into its farther consideration. When such a preparation had been made, in a form that ought to be that of the greatest notoriety to the members, why was it necessary that a week or a fortnight should be taken up with additional notices? He saw no reason for it, and therefore hoped the hon. gentleman would persist in his motion. Was not the meeting of parliament itself a sufficient notice to engage every member's attention, and to beget his expectation that important business would be brought forward early in the session? The question, whether the examination of witnesses should be carried on above stairs or not, seemed to him to be neither more nor less, than a question whether the consideration of the slave trade should be annihilated or continued.

Sir *William Young* conceived that he was the person alluded to, having at the meeting that morning expressed a doubt as to the propriety of objecting to the motion for a committee above stairs. He assigned his reasons for doubting upon that point, but argued for a longer notice than Wednesday next; observing, that sending the matter to a committee above stairs, would be an entire change of the course of their proceeding on the subject. As their having hitherto conducted the examination of the witnesses in a committee of the whole House, would naturally lead the parties interested to expect that they would continue the same course this session, it would be but fair to allow time for all the parties to be apprized of the intended alteration.

Mr. *Pitt* wished to remind the House, that last session it had been stated, that the most advisable mode of proceeding would be by a committee above stairs; that the very question now considered as a new one, had been discussed, and he believed the intention of resuming the consideration of the slave trade in that mode of proceeding had been publicly intimated.

Alderman *Sawbridge* believed there never was an instance of so important a question having been referred to a committee above stairs. In the discussion of

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such an interesting subject, upon which so much difference of opinion prevailed, the public ought to know every fact that came out. If it went to a committee above stairs, they would establish a bad precedent, and by degrees they would lose the habit of doing their business as a House of Parliament. It was by thus giving up one thing after another, that the very principle of parliamentary right was at length lost sight of, and what they ought to hold most sacred, by degrees destroyed.

Mr. *Burke* observed, that it was an error to suppose that there existed no precedent of referring matters of considerable public importance to committees above stairs. The House had it in its power to regulate its proceedings at all times, by circumstances of convenience and as necessary dispatch dictated; there were a variety of precedents to prove that the House had acted differently on different occasions. In fact, it was a question entirely of discretion with the House.

The question, as originally moved, was agreed to.

Jan. 27. The House having resolved itself into a committee of the whole House, to consider further of the circumstances of the slave trade, complained of in the several petitions which have been presented to this House, relative to the state of the African slave trade,

Mr. *Wilberforce* said, that as it appeared, from several observations which had fallen from those gentlemen with whose sentiments, concerning the present point in debate, he had not the honour of coinciding, that they remained dissatisfied in respect to the appointment of a committee above stairs, and that their doubts related chiefly to the constitution of that committee, he should now endeavour so to elucidate the matter, as to remove their objections. Though in conformity to the rules of the House, the committee for which he should move must be nominally a select committee, yet he certainly meant it to be an open committee, at which every member who chose it might be present, and take part in the examinations. Those, therefore, who were not named as members of the committee, would have the same advantage as those who were selected by the House, with this only difference, that a quorum must consist of five of the persons who were nominated members of the committee. In such a committee, they would be able to proceed in the examination of witnesses much more expeditiously than they could expect to do in a committee of the whole House; in which latter they could scarcely ever proceed till late in the day, and frequently with very little attendance. They had already gone through a good deal of examination; but what had been examined was but a mere trifle in comparison to the evidence that remained to be examined relative to the treatment of slaves in the middle passage and afterwards. He had that day heard that it was said he was grown lukewarm in the business. So far from it, his opinion was the same as ever upon the subject. With more information, and maturer judgment, he was convinced that it would not only redound to the national honour that the slave trade should be abolished, but to the true interest of the West India islands. He then moved, "That the chairman be directed to move the House, that in order to facilitate the progress of this committee in matters referred to them, the House will be pleased to appoint a committee for the purpose of taking the examination of such witnesses as shall be produced on the part of the several petitioners who have petitioned this House against the abolition of the slave trade."

Sir *John Miller* asked why this question should be treated differently from every former question of equal importance. The rooms above stairs were small and inconvenient, so that only those members who were immediately concerned could be there; the public could not know what was done respecting the business; and as it concerned the commercial interests of the country, it should therefore be conducted with all that dignity and sobriety which accompanied examinations carried on at the bar of the House.

Mr. *M. A. Taylor* said, if the business was to go on, why not let it proceed in as expeditious a manner as possible. Would those who objected, declare, that if the examination continued at the bar of the House, they would be present at the whole of it? One great objection was, the very great expense the parties were put to by continuing in the House with counsel at the bar. It might happen that the attendance was but small; and if less than forty members were present, it was in the power of any one member to

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have the House counted, and thus oblige them to separate in the midst of the examination of a witness.

Major *Scott* objected to the motion. In the case of Mr. Hastings, the same complaints of thin attendance were made; the committee of the whole House did not sometimes contain above three or four members. To remedy this evil, an hon. member (Mr. Francis) made precisely the same motion which had now been made, and supported it by the same arguments. The major said, he thought there was nothing objectionable in it, and had agreed to it; but a right hon. gentleman (Mr. Grenville) opposed it, as being contrary to the usage of parliament and to justice, and there it ended. The same arguments applied now, but with greater force; that undoubtedly was a case in which the honour and dignity of the House, and the justice due to an individual, were deeply concerned; but in the present case, a property, amounting, as he had been told, to above forty millions, and much of the revenue of this kingdom, depended upon the issue of the present inquiry; therefore, he wished it to be conducted in the most solemn manner.

Mr. *Francis* said, that those gentlemen who preferred an examination of witnesses at the bar of the House, to an examination of witnesses before a committee, could not, in his mind, be seriously desirous of expediting the business.

Sir *Watkin Lewes* thought, that no question could come before them that demanded more deliberation. It ought to be patiently and temperately investigated, and that fairly and openly, so that the public could witness the progress of it, and be enabled to judge of the facts as they came out. One reason why the business ought not to go to a committee above stairs, was, that in the House, the parties could have the benefit of counsel, whereas above stairs they could not. In the House, they could not go on with less than forty members present, nor ought a business of so great moment to proceed with a smaller attendance.

Sir *William Young* conceived that a committee above stairs would bring the evidence before the House more speedily than they could expect to get at it by going on, perhaps, only one or two days in the week. Expedition was greatly to be desired; the property of the West India islands was deeply interested in the question, and the West India merchants had complained of the suspense attending the question as the greatest evil.

Alderman *Newnham* said, that if he was satisfied that the West India merchants and planters wished the examination of witnesses should go to a committee above stairs, he should consent to the motion, but he believed they were against it, and wished the examination to proceed at the bar of the House. Were the House aware that the question of the slave trade involved the very existence of the country? for the preservation of the West India islands depended on it, and our connexion with those islands, in his mind, materially concerned the welfare of the country. Were gentlemen prepared to say we could do without the West India islands? He was of opinion that we could not. The present could not be called a private business; it was a public business, and the crowded gallery proved how much the public were interested in it.

Mr. *Jekyll* had not a doubt, in his own mind, but that the best and most expeditious mode would be by a select committee, and that advocates might assist parties at such committees. There was one serious question that he wished to put to the hon. mover, and that was, when the evidence was printed, and in the hands of the members, would counsel be allowed to sum it up at the bar of the House, and argue upon it, or would the present motion preclude the parties from having that advantage?

Mr. *Wilberforce* said, it was not his intention to preclude the parties from any advantage that they would have been intitled to, if the examination had been continued in the House.

Mr. *Gascoyne* said, he had listened with a good deal of attention, to hear if any precedent could be brought forward, but no one had been mentioned, and he believed that a precedent could not be found. He did not think the hon. gentleman would be able to accelerate the business so much as he expected. Committees above stairs would do for the discussion of a turnpike-bill, but not for the discussion of such a question as the present. If he was not much mistaken, it was against a standing order, to send such a question to a committee above stairs. He could not take upon himself to state the exact words of the standing order to which he alluded, but the spirit of it he knew to be,

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that no regulations relative to trade shall be discussed but in a committee of the whole House. So far was he from thinking that going up stairs would accelerate the business, that he was of opinion it would produce a different effect. For the first five days, they would be stewed by the heat of a crowded committee-room; but when the curiosity of gentlemen had been gratified, they would find it as difficult to make a quorum as it had been to keep a House.

The *Speaker* said, it was his intention to have remained silent, if what had fallen from the hon. gentleman had not pointed so particularly at him, that his wishes to evade all discussion of a question in which his own personal ease was interested, and which therefore made it delicate ground for him to go upon, must necessarily give way. There certainly was a standing order that no regulations relative to trade should be investigated except by a committee of the whole House; but then, the hon. gentleman would recollect, that the committee now moved for, was not a committee for the discussion of the slave trade, but merely a committee for the examination of witnesses. The discussion of the momentous business itself would come on before the committee of the whole House. The hon. gentleman had said there were no precedents. He knew of none precisely analogous, but there were precedents that covered the proceeding, and he was prepared to state them, if necessary. Even in the important public business of granting supplies, there were precedents of the House having appointed sub-committees to examine witnesses. But it was out of all doubt, that the House had a power to govern its own proceedings, and make a new rule of any sort that did not militate against a standing order, or a parliamentary principle; and it did not always follow, that because a mode was new, it therefore must be improper. Having mentioned the absurdity practised in summing up the evidence given during a former session, the Speaker added, that there was less absurdity in summing up at the bar evidence which had been brought forward above stairs.

The question was then agreed to.

Weights and Measures.] Feb. 5. Sir *John Riggs Miller* rose, and introduced his speech by observing, that agreeably to the repeated notices which he had given the House, in the course of the two former sessions of parliament, of attempting an equalization of the weights and measures of this country, he meant to move, "That the clerks of the market of the different cities and market towns throughout England and Wales, and the town of Berwick-upon-Tweed, and the clerks of the different counties in the same, do forthwith make out and transmit to the sheriffs of the respective counties in which the said towns are situated, returns of the different weights and measures now in use in their respective cities and market towns, as well as specifications and descriptions of any particular commodities that are bought and sold by any customary denominations or proportions of weight and measure, as far as any such have come under their observation. 2. That the said order be sent to the sheriffs of the several counties in England and Wales, and be by them transmitted to the clerks of the markets in their respective counties; and that the said sheriffs do return to the clerk of this House, to be by him laid before the House, the returns they shall receive from the clerks of the markets."

Sir John said, his reason for not introducing Scotland into his present motion, was not because the weights and measures of that country possessed either equality, proportion, or conformity; on the contrary, they were more various, more uncertain, and more intricate, than even those of England, according to the statements transmitted him by the first mercantile associations, guilds, sheriffs, and other municipal officers and magistrates of that country, who were unanimous in testifying much anxiety for the success of the proposed investigation; entering fully and seriously, for he must not say soberly, into the grievances endured; soliciting their correction, and suggesting remedies; but his reason for not including Scotland in his present motion was, that by the 17th article of the union, "From and after the union, the same weights and measures shall be used throughout the united kingdom as are now used in England; and standards of weights and measures shall be kept by those burghs in Scotland, to whom the keeping the standards of weights and measures, now in use there, does of especial right belong; all which standards shall be sent down to such respective burghs, from the standards kept in the exchequer at Westminster, subject, nevertheless, to such regulations

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as the parliament of Great Britain shall think fit." Under this article, he conceived, that whatever improvements or corrections might be effected by the British parliament in the present state of the weights and measures of this country, the same must be easily, if they are not indeed necessarily, imparted to Scotland, by any such act of our legislature. Sir John said, he was confident that it would be fully admitted him, as the basis of his investigation, that the weights and measures of this country ought to be equal and uniform; that they were not so, was demonstrably evident: it was, therefore, his duty, as it was very much his wish, to open to the House, at this early stage of the investigation, his general ideas upon a subject, which had engrossed much of his time and attention, and which, from its moment and importance to the public at large, had already obtained (he spoke it from experience) the approbation, support, and encouragement of the most respectable communities, and individuals of all descriptions without those walls.

His first object would be, then, to satisfy the House of the uncertainty and perplexity which at present prevailed, and which had at all times prevailed, in the weights and measures of this country. His second should be, to lay open to them the causes which, in the present circumstances and condition of our legal standards, make such inequality, uncertainty, and perplexity permanent and inevitable. In order to accomplish his first purpose with that respect, order, and consideration which the extent and the importance of the subject demanded, he should close what he had to say this day with the motion, of which the House were already in possession, which, when complied with, would demonstrate, under the first and best authorities, and beyond every possibility of doubt, hesitation, or contradiction, the existing disorders in the weights and measures now in use in every part of this nation. His second purpose, viz. the decided incompetency of our present legal standards, he meant now to go into at large, which he doubted not but that he should establish and confirm before he sat down. He, however, felt it to be his duty, without preface or delay, to submit the remaining general outlines of his plan, in order to advance its investigation, to promote its improvement, to invite its correction, and to solicit its support. Sir John said, his third object, which should lie over for a future day, would be to state to the House, the mischievous influence of the inequality of our weights and measures upon the commerce, and upon the comforts of individuals, as well as of the community at large. His fourth would lead him to offer some immediate corrections of the abuses now prevailing, through such inequality. And his fifth object, would be the suggesting some general standard, from which all weights and measures might in future be raised, being itself derived from something in nature that was invariable and immutable, and which must necessarily be at all times and in all places equal and the same. By such a standard, if once obtained, weights and measures might be corrected, adjusted, or regenerated, with the utmost truth and facility, as the occasion should require.

He should not impose upon the House for the present an attention to a philosophical discussion, which would better suit a more advanced state of the investigation, but content himself with merely acquainting them at that time, that the vibrations of a pendulum would, he hoped, prove such a standard. Sir John said, he meant then to return, and should confine what he had to offer to the House that day, to the sole statement and proof of his second object, viz. the causes which make the uncertainty, inequality, and perplexity in the weights and measures of this country, so long as they shall continue to be governed by our present legal standards, permanent and inevitable. This, he said, was the properest mode that had suggested itself to his mind of entering upon the proposed arduous and complex investigation, an investigation which had cost him much time and much labour; in the future progress of which, he then begged leave to lay in his claim to every indulgence and every assistance, both public and particular, to which the extent, the importance, and the intricacy of the subject, compared with his own insufficiency, could supply a title. For arduous, indeed, must be the attempt to remedy a mischief, which has, for more than 450 years baffled every exertion of the legislature of this enlightened country that had been aimed at its correction or cure. Sir John said, he did not apprehend it would require much labour or difficulty to convince that House and the public, of the impossibility of any degree of equality or uniformity existing in the weights and

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measures of a country derived from legal standards, originally defective in themselves, as possessing no degree of uniformity or relative proportion to each other: that this was fully the case with our present legal standards, he should pledge himself to prove, under an authority which would defy refutation. To support his assertion, he should resort to two long and laborious reports of committees of that House, that had sat in the years 1758 and 1759, under the order of parliament, for the purpose of considering and reporting upon the state of the weights and measures of the country, &c. Of those reports, which were apposite and circumstantial, it was his intention to make a liberal use, and he should apply so much of them to his immediate purpose, as would, he trusted, amply sustain his present assertion. The committee stated, after a very circumspect and deliberate investigation of their subject, "that for no less than 415 years, that is, from the great charter down to the 16th of Charles 1st, the statute book abounds with acts of parliament, enacting, declaring, and repeating, that there should be one uniform weight and measure throughout the realm; and yet every statute complains that the preceding statutes were ineffectual, and the laws were disobeyed." The committee, in the next place, having called for and obtained the assistance of the best mathematicians and mechanics which this nation possessed, had all the weights and measures, accounted standards, in the exchequer, the Guildhall, the Mint, &c. most accurately sized and compared with each other, and reported such comparison and disagreement with the nicest exactness, even to the minutest subdivisions of a grain and a line. With regard to longitudinal measures, the committees say, "The standard measures for length, kept in the exchequer, are two only (viz. yards), the one of Henry 7th the other of 1601; they are both very coarsely made; they do not agree exactly; the divisions that are upon them are not accurate; the rods appear to be bent; and are therefore very improper standards." The committees say, that they could not learn or discover that any other longitudinal measures existed which were accounted standards, save only such as had been copied from those two very imperfect originals. Of measures of capacity, the committee reported, "That the bushel used as standard at the exchequer holds less than eight standard gallons by about half a pint, and the standard gallon holds less than four standard quarts by a quarter of a pint, and two of the standard pints do not quite fill the standard quart, of which there is but one at the exchequer." The committee a little farther on observed, "That of measures of capacity the gallon seems to have been our old standard; for the bushel, hogshead, &c. are usually referred to that, and the quart and pint may be considered as aliquot parts of a gallon, though of the gallon itself we have never yet had a proper standard, because from the figures of the vessels that are established as such, they can neither be guaged nor measured exactly, even with liquors." In regard to the standard weights, the committee states that "The standard weights remaining in the court of receipt of exchequer, being compared with those in the Tower, as well as with those in the possession of the hall-keeper of the Guildhall, and also with the weights of the Mint, were all found to disagree with each other," insomuch, that the committee close their account of them, by observing, that by every comparison they had made, there appeared to them to be a considerable difference in the standard weights and measures, in whatever manner they had been tried." The committee had also, with a most laudable industry, compared the standard weights used by scale-makers, who make weights for sale, with all the existing legal standards, and found a general and universal disagreement between them. Sir John said, there was another circumstance he could not avoid taking notice of in this place, that had struck him with no small degree of surprise, as he presumed it would do the House; and that was, that having himself had several of the bushels accurately measured (which, it was to be presumed, had been sent from the exchequer to the clerks of the different markets, by which their returns are made of the price of corn, in the various districts of the kingdom, for periodical publication in our Gazette), no two of these bushels were found to be of the same size, nor did any one of them agree exactly with the standard bushel of the exchequer. Whether this discordance had arisen from negligence, from ignorance, from fraud in the workmen, or from whatever other cause it might have been derived, it most certainly merited inquiry and correction. He said, that having, at this very moment, in his pos-

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session the greater part of those returns from the clerks of the peace and the clerks of the markets, which it was the object of his present motion to bring speedily and formally before the House, he did not hesitate to assert, that the slightest and most cursory inspection of them, when properly before parliament, would fully satisfy the most diffident and scrupulous inquirer, of the present prevailing inequality, intricacy, and disorder in the weights and measures of this country. And that this should be the case, whilst the very principles of truth, equality, proportion, and conformity were wanting in our legal standards, of which he believed the House must be now fully satisfied, was certainly not extraordinary, for it could not be otherwise, and must endure, so long as our present legal standard should be continued permanent and inevitable.

He said he did not mean to take up more of the time of the House for the present, assuming that he should hereafter establish his first, as firmly and substantially as he conceived he had already established his second object. The remainder of his investigation he should postpone, until his motion to the House for a select committee to take the returns now moved for into consideration, &c. He should add but a few words more, in support of the general necessity and expediency of going forward with the inquiry which he had felt it his public duty to bring before the House. Sir John said, that surely nothing could be more degrading, more absurd, and more preposterous, than that, which should be the clearest and plainest of all possible things, and ought to be on a level with the lowest and the humblest capacity, should prove to be undefined in law, obscure in practice, and involved in perplexity; that, by which men buy and sell, pay, contract, barter, eat, and live; that, which it is the first interest, as it is certainly the first duty of every government, whatever be its character, climate, or constitution, to reduce to such simple and self-evident principles, that the meanest intellect shall be at par with the most dexterous; so that the poor man, the blind man, the child, and the ideot, for whose protection all laws were more especially established, should be insured the receipt of the full value in commodity for their money, and the full value in money for their commodity. Was this the case in the present state of our weights and measures? It most certainly was not; and the consequences were, that they must necessarily be detrimental to our commerce, disgraceful to our policy, and injurious to our people. The legislature could not surely find an object more worthy of its dignity and of its duty, and better suited to its responsibility, than that of applying remedies to abuses which so deeply affect a very large portion, might he not safely say, every single individual, whom it was bound to protect, and for whose injuries, in the present instance, it stood greatly, indeed solely, accountable, as well as responsible; for without its countenance, every inquiry must be vain, and without its support, all reform must be useless. We cannot go, said sir John, from one parish to another, or from one market town to another, without learning a new language, which no grammar or dictionary teaches us; we can neither buy nor sell, nor contract, without an apprehended imposition. An acre is not an acre, nor a bushel a bushel, if you travel but ten miles—a pound is not a pound, if you go from the goldsmith's to the grocer's—nor a gallon a gallon, if you go from the alehouse to the tavern. What purpose in nature can all this confused variety answer, except the perplexing all dealings, and the benefiting knaves and cheats. In many counties, Sir, it is a notorious fact, and I am ready to prove it, that the poor thresh out corn and other grain by the largest customary bushel, and buy their bread by the smallest; this, indeed, is literally working by long, and eating by short, measure Surely, to fix upon one weight and one measure, which shall have a sufficient compass for including all that can be bought or sold, seems to be a matter so reasonable, and implying so little hardship, that it is not easy to find an argument against it, besides what may be drawn either from the devotion to custom, the knavery, or the caprice of mankind. What is it to an honest man by what weight or by what measure he buys or sells, while he continues to receive or to pay the same market price for the same quantity and quality of commodity? And such would be the case, when the relative proportions between any standard which the legislature may at any time choose to establish, with those hitherto in use, shall be ascertained by accurate tables, converting the former weights and measures into the actual standards—a matter, surely, of

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very little difficulty. The poor complain —and their complaints should always be listened to—that they have too little in weight and measure for their money and their labour. Their dealings are chiefly, indeed necessarily, at small shops and with petty retailers, who receive an immoderate profit upon articles of the worst quality, and these again greatly defective in weight and in measure. This is, undoubtedly, one cause of the distress of the lower order of our people, and necessarily of the great increase of the poor-rate throughout the kingdom (for the truth of my assertion I appeal to every country gentleman who hears me), whilst they who occasion these distresses, the artful and dishonest venders, by an habitual perseverance in such iniquitous practices, pollute and contaminate their minds and their morals, though they may possibly improve their fortunes, and find themselves in the end compelled to relieve the very objects of their own oppression.

Sir John concluded by moving the two resolutions, which were unanimously agreed to.

Debate in the Commons on the Army Estimates.] Feb. 5. The order of the day, for the House to resolve itself into a committee of supply, being read, the Speaker left the chair, and Mr. Gilbert took his seat at the table. The army and ordnance estimates for the present year, were referred to the consideration of the said committee.

The *Secretary at War* rose and observed, that the army estimates of this year were nearly the same with those sanctioned by the House last year; the exceptions were, the estimate of the corps of 200 men destined for New South Wales, and an addition of 10,000*l.* to the half pay list. This being the case, he should not trouble the committee with any argument on the subject, unless a fuller explanation should be thought necessary. He concluded with moving, "That it is the opinion of this committee, that a number of land forces, including 1620 invalids, amounting to 17,448 effective men, commissioned and non-commissioned officers included, be employed for the year 1790."

Mr. *Marsham*, before he troubled the committee with any observations, requested his majesty's speech might be read. The clerk having accordingly read the two first paragraphs, Mr. Marsham proceeded to animadvert on that passage in which his Majesty states the continued assurances of the good disposition of all foreign powers towards this country; and from this statement argued, that the present expensive establishments ought either to be reduced, or some satisfactory reasons assigned, why, during the time of profound tranquillity, a system of economy was not pursued, and a consequent reduction did not take place. The estimates of the army were augmenting at an unprecedented rate. This was, he believed, the first instance in which this country, after so many years peace, had not reduced the army to the usual level of a peace establishment. Though the people now laboured under the pressure of very heavy burthens, yet, since the policy of the country required every possible support of the sinking fund, for the diminution of the national debt, this might not be the fit period to alleviate those necessary and unavoidable burthens. Taxes were now multiplied beyond what they had ever been; the safety of the empire might not yet warrant any reduction. It was the indispensable duty of every member to watch, with a jealous eye, the progressive augmentation of the army, and to suffer no profusion of the public money to pass unnoticed. He was, therefore, the more solicitous to know the reasons why the estimates under consideration were continued on so large and expensive a scale, and had so far exceeded the peace establishment proposed at the conclusion of the late war.—Mr. Marsham now contrasted the army establishment proposed in the present estimates, with the army establishment of 1775, a year of peace prior to the last war. At that period, seventy regiments, consisting of 474 men each, were on the establishment; but at this time there are seventy-seven regiments, of 466 men each, which makes an addition of seven regiments and about 700 men. The peace establishment was settled in the year 1783 at sixty-eight regiments; which, as it was then generally understood, were soon expected to undergo a further reduction of four regiments; making an establishment of sixty-four regiments. Now the present peace establishment, as was already observed, exceeded that of the year 1775 by seven regiments and about 700 men; and that proposed in the year 1783, by thirteen regiments. This alarming increase de-

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manded a particular explanation; especially when it was considered, that our territorial possessions, to defend and to garrison, were now less in extent than in 1775, by the loss of thirteen American colonies, of the province of Florida, and of the island of Minorca. The increase of our military force appeared still more surprising, when our relative situation with other countries was considered. In no quarter of the globe were our possessions in danger of attack from France; nor had we any thing to apprehend from the Dutch, now our good friends and allies. While France was not in a capacity to interrupt our tranquillity, nor Holland disposed to retard the progress of our increasing greatness and prosperity, was not this an additional reason for reduction, retrenchment, and economy? Did the defence of our West-India possessions require an augmentation of our military force? Those most interested in the preservation of those valuable parts of the British dominions, were of opinion, that an army was ill calculated for a bulwark of their defence. The garrison of Gibraltar, at this moment, contained only ninety men less than the number formerly thought sufficient for the protection both of that fortress and Minorca together. Judging from our relative situation with other countries, and from other favourable circumstances, no opportunity could ever present itself to this country, so favourable to a reduction of our army establishment, as the present. Though our finances were flourishing, and in a great degree had answered the flattering expectations entertained of them, yet our expenditure had so much increased, that he had serious doubts whether it did not equal the whole amount of the sinking fund; little progress therefore either had been, or could be, made in the diminution of the national debt. He should avoid any particular remarks on the great political events which had recently taken place abroad; it was a subject too delicate for him to handle. Should there be any thing in the complexion of affairs abroad, which, in the opinion of ministers, rendered so large a military establishment prudent and necessary, he would willingly forbear all further inquiry into the particular circumstances. He had thought it, however, his duty to make these observations.

Mr. *Pitt* said, that so far was he from wishing to avoid an investigation of the subject, that he most sincerely courted a discussion of every part of the public service. The hon. gentleman, with becoming propriety, had stated his doubts respecting the estimates; and it was the acknowledged right and duty of every member, when he had reason to entertain doubts respecting any branch of the public service, to state them, and expect every suitable information. The first and general ground which the hon. gentleman assumed, for doubting the propriety of voting so large an establishment, was the friendly assurances of the continued good disposition of all foreign powers towards this country, expressed in the King's speech. His majesty had also assured them, "that the internal situation of different parts of Europe had been productive of events which had engaged his most serious attention." From these declarations, were we warranted to conclude, there was any probability that this country might be precipitated into a war, when only a possibility might be intended, that we might ultimately be involved? Though Great Britain continued to receive professions of the friendly dispositions of all foreign powers, nor was there any reason to question their sincerity, yet the turbulent situation of the greater part of the continent, and the events that might originate from this source, rendered it uncertain, but we might eventually share in the general hostility; though he trusted the moderation of his majesty, and the system uniformly pursued by his ministers, would insure us a long continuance of peace, yet it became us to be prepared. This was the time for securing the permanent tranquillity of the country, when our former enemies were engaged in their own domestic concerns, and we were adding daily to our strength, wealth, and prosperity.—The hon. gentleman had expressed his surprise, that no attempts had been made towards lessening the burthens of the subject, by any reduction of taxes. Mr. Pitt said, he might venture boldly to affirm, that no man could look forward with greater anxiety than he did to that most desirable event, when the people might be relieved from a part of their heavy burthens; yet, for many reasons, he was convinced, though our prospect was favourable, that this was not the fit moment for a reduction of the army, lower than was proposed in the present estimates; since, in his opinion,

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the only true method to secure a continuance of peace, was to provide against war, by keeping the country in a proper posture of defence, and rendering her respectable in the eyes of neighbouring nations. The surest means to afford the people relief was, by preserving the credit of the country, and placing it in such a situation, in which it could not be exposed to any sudden disaster. A small saving now might prove the worst economy, by involving us in disputes which might be attended with greater additional burthens to the kingdom. He would, therefore, rely on the generosity, spirit, and industry of the nation, to support the respectability and credit of the country. —He should now proceed to answer the objections urged by the hon. gentleman, from the particular ground of a comparative statement of the present army establishment, and that which was prior to the last war. He agreed with the hon. gentleman in most of his statements; but if the estimates were but accurately examined, the difference between the actual establishments in question would appear very inconsiderable. The expense, he was ready to admit, was much greater; but this would be an unavoidable circumstance. The aggregate difference might be computed at 30,000*l*. The plantation estimate, that of the guards and garrisons, might exceed in expense those of the establishment before the war about 20,000*l*. The remaining difference was easily accounted for, in the articles of half pay, of Chelsea, and the pensions allowed the widows of those brave men who had perished in the service of their country. Though the debt accumulated by a long, expensive, and unfortunate war, bore heavy upon us, yet, to the credit of the nation be it ever spoken, that while they were straining every nerve to recruit her resources, improve her revenue, and diminish her public incumbrances, they did not stint the funds of compassion, generosity, and benevolence, —The present state of Europe did not solely affect the question; for a particular regard ought to be directed to the situation of our own territories. It was observed, that we had lost thirteen American provinces; but did not our remaining territories in that quarter of the globe obviously warrant an augmentation of military force for the protection of our inland frontiers? The exclusive provinces of Canada and Nova Scotia, demanded for their defence a larger military establishment than all our American possessions before the war, taken together. It was, therefore, evident, that the reductions of our establishment in this quarter, could not take place in that proportion which, at the first view, might be expected.—The hon. gentleman said, that we had added to our force in other parts about 4000 men, and particularly insisted on the augmentation of the garrison at Gibraltar. The addition of 1000 men was thought necessary for the defence of that valuable fortress, on the recommendation of the first military authorities; and considering the importance of this place to Great Britain in the course of the last war, would any member grudge the expense of one, or even two thousand men, for its better security, when thought advisable by competent judges? With respect to the addition of our military force in the West Indies, he should decline at present entering into any detail, as the subject had already undergone the most ample discussion. To save the expense attending the necessary augmentation of our force for the protection of our plantations, would, in his opinion, be bad policy, as it might tend to weaken the security of those valuable possessions; for, did we not, in the course of the last unfortunate war, often experience the bad consequences of trusting to sudden levies for the defence of our West India islands? He therefore hoped for the approbation of the committee, in endeavouring to put our plantations in such a state of security against any future sudden attack, as might enable them, on such an emergency, securely to wait for reinforcements from this country. When these circumstances were duly considered, he flattered himself the peace establishment would no longer appear extraordinary.—Upon the whole, it was evident, that in our foreign settlements, there was at present no room for reduction; and as circumstances continued the same at home, no alteration could be attempted, consistently with prudence. It might be improper for him, who was not a military man, to enter more fully into the detail of the reasons which convinced him of the propriety of the present army establishment; yet he felt no difficulty in declaring, that, in his judgment, it was a measure dictated by sound policy, that a peace establishment should be such, in point of number and arrangement, as to

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render the army effective on the most sudden emergency. The present constitution of the army, which had been adopted for the permanent good of the service, was a system that could not have been carried into effect, without considerable additional expense. A greater number of officers than usual were retained on full pay, which, while it afforded an opportunity of rewarding those who deserved well of their country, was, in his opinion, the best means of preserving the army on that respectable footing, that whenever the country should be precipitated into hostility, it might be able to act with vigour and effect. Thus, by making our peace establishment the foundation of a war establishment, we should always be able to command a powerful and efficient army to answer any sudden emergency. These were his sentiments on the subject, and he hoped they would prove satisfactory; but before he concluded, he must beg leave to observe, that no man would be influenced by stronger motives than himself, to look forward with an anxious eye to that happy period, when he should be able to propose a reduction in the army establishment; but were he at this moment to attempt such a measure, from any view to economy or personal popularity, he should betray his duty to the public, by risking what he should ever hold dear—the safety of his country.

Mr. *Fox* said, he perfectly agreed with the right hon. gentleman, that the House were greatly indebted to his hon. friend, for having, that day, introduced a discussion of the army estimates. He also agreed with him that this might not be the period fit for the reduction of taxes. However harsh such an opinion might sound in the ears of their constituents; however irksome and unpleasant it might be for gentlemen in office to broach it; and however unpopular and disadvantageous it might be for men in similar situations with himself to avow it; yet he made no scruple to declare it as his opinion, that great and heavy as the public burthens were, and however the necessity of their continuance might be a matter of lamentation, this was not the time to diminish them by a reduction of taxes. Every honest man, every lover of his country, every admirer of the constitution, and every one who had made political concerns the subject of observation and study, must unite with him in opinion, that the House ought ever to regard as sacred these two grand objects —the preservation of our excellent constitution, and the support of our national credit. But, while it was the indispensable duty of the House to acquaint their constituents, that for the purpose of preserving the constitution and our national credit, there might even be a necessity of imposing additional burthens upon them, care ought to be taken that no unnecessary addition to the public burthens should be tolerated; that no undue advantage should be taken of the spirit and resolution of the people to support the necessary exigencies of the state, to do any thing under colour of defence, or of revenue, to the prejudice of the economy or the constitution of the country. He had never thought it expedient to make the internal circumstances of other nations the subject of much conversation in that House; but if there ever could be a period in which he should be less jealous of an increase of the army, from any danger to be apprehended to the constitution, the present was that precise period. The example of a neighbouring nation had proved, that former imputations on armies were unfounded calumnies; and it was now universally known throughout all Europe, that a man, by becoming a soldier, did not cease to be a citizen.

It was not, therefore, in a constitutional point of view that he dreaded the increase of the army, but on the ground of economy. That this country had escaped the tumults and distractions in which other countries were involved, might be imputed to our having passed the ordeal, and our being long in possession of what other countries were now laudably contending for. We had long enjoyed the advantages of a free and happy constitution, and could, therefore, not be exposed to the difficulties arising from the necessity of framing a new one. Having stood clear in point of finance, and preserved our credit entire, we could not be exposed to the difficulties arising from a breach of faith, or from public bankruptcy. The first object of our attention, therefore, ought to be, the preservation of our constitution; on which alone depended the security, happiness, and repose of this country. The next object to which our attention ought to be directed was, the preservation of our credit, which was principally supported by a due regard to

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matters of economy and finance. To consult economy, we must look for reductions in some department of our public expenditure; and in no branch did it appear to him so practicable, as in the army establishment. But the augmentation of the army, it was said, had undergone the fullest discussion and decision of the House. This he begged leave to controvert. The question was undoubtedly debated, and carried by a considerable majority; but though the augmentation of our military force was then agreed to, it was not considered as a permanent peace establishment of this country, but a temporary establishment, to answer the exigency of the occasion, from a confidence in the judgment of the chancellor of the exchequer of its indispensable necessity. That many votes were given in favour of the measure, on this express ground, must be in the recollection of the House: by this observation, however, he did not mean to insinuate, that the right hon. gentleman had misled the majority into that opinion; for he was well aware, that at that time the chancellor of the exchequer had held a different language from that just stated to have been that of many members who then voted for the military augmentation in question.

Mr. Fox observed, that when the subject was agitated two years ago, though he had the misfortune to vote in a minority, yet his sentiments were still the same—that the increase of the army was wrong. His opinion, indeed, had been but the more confirmed and strengthened in proportion to the time that had elapsed; at the time, however, he did not state his sentiments in very strong terms, as there might be many circumstances in the knowledge of his majesty's ministers that called for an augmentation with which he could not possibly be acquainted. But these were matters connected immediately with the subject of which the right hon. gentleman had taken no notice; namely, the subsidiary treaties and alliances with foreign powers. We had formed an alliance with the states-general and the king of Prussia, of which he highly approved; as they must afford us assistance in the hour of extremity, and add to our reputation of strength. The subsidy to Hesse Cassel ought to be regarded as an additional supply for the army; and, indeed, every foreign alliance should be considered as an indirect augmentation of the army. These treaties, therefore, he conceived, ought to have lessened the expense of our peace establishments. But he was told, that these treaties might excite the envy and rouse the ambition of other powers to combine against us; that the necessary consequence, therefore, ought to be the augmentation of our force. These arguments he did not then think very applicable; but now having had the sanction of time, and stood the test of experience, and no unfriendly combinations having been formed against us, ought we not rather to expect a reduction, than an augmentation, of our military establishment? He would ask, were we not now less liable to an attack than in the year 1787, when an increase of military force was thought expedient for the defence of the West Indies? There might, indeed, then have existed some ground for apprehension of danger, known only to his majesty's ministers, which no man differently situated could come at; and so much credit was always due to the servants of the Crown, who, from their official situation, might obtain intelligence of foreign transactions, which might render an augmentation of military force in the West Indies at the time, a prudent and politic measure, for the majority of the House to adopt. But whatever might have been the danger then to be apprehended, it was now certainly diminished in a degree hardly to be calculated.

The concern expressed in the speech from the throne, at the events that had taken place in Europe, did honour to his majesty; but on receiving those events, and estimating their probable consequences, did there appear any greater likelihood of an attack to be made on this country, than before the events in question took place? Was it at all probable, that France, while her whole attention was occupied by so important an object as the arrangement and formation of her constitution, would attack our West India islands? The necessity, therefore, which had been urged of keeping up so large and expensive a military establishment in that quarter of the globe, must be founded in idle chimeras and vain pretences. The new form which the government of France was likely to assume, he was persuaded, would render her a better neighbour, and less disposed to hostility, than when she was subject to the cabal and intrigues of ambitious and interested statesmen. From Spain we

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had little to fear, when not impelled by the force of the family-compact. From what quarter, then, were we apprehensive of danger to our West India possessions? Every circumstance tended to confirm the certainty of greater safety to the West Indies at this time than at any other period; and consequently a reduction of our military establishment there might now have been expected. But he was told, that each island must have such a force, in time of peace, as might be sufficient to defend it in time of war. To this plan he always objected; because he firmly believed it impracticable; but he particularly complained that the plan had never been explained in detail; nor had it ever been specified what number of troops was requisite for the defence of each island. To such an explanation, in his opinion, the House was now intitled. Gentlemen ought also to attend to the continued augmentation of the troops in the East Indies; and consider that when they voted this increased army estimate, they had not voted the whole expense; because the amount of the extraordinaries must increase in a much greater proportion. What the reasons were which induced his majesty's ministers to continue the increased establishment he could not say; nor was he at all desirous of hearing what they might think it their duty to conceal.

From all that appeared to him in the situation of the country, and in the general state of Europe, he had no difficulty in saying that the present was the proper time for reducing the army. With regard to the right hon. gentleman's comparative statement of the army establishment, which, he contended, was nearly the same now as it was at the time preceding the last war, Mr. Fox observed, that the comparison was inaccurate, unless the expense of the subsidiary treaties were included; and that the whole argument, therefore, must be fallacious. If the establishment proposed in 1783 was right, the present was undoubtedly wrong. He should only say, that the most pardonable error a minister of this country might perhaps commit was, to make the peace establishment of the army lower than it ought to be. With regard to the increase of the garrison at Gibraltar, he was not inclined to say much, because his majesty's ministers might have reasons that induced them to believe such an augmentation necessary; if so, he was of opinion the men were well bestowed, and the additional expense no profusion. It was also observed, that as Holland and Prussia were our allies, from whom we might expect assistance, they also, agreeably to the stipulated terms, were intitled to support from us: true; but did it from thence follow, that we ought to augment our military establishment? Was it not obvious to the merest smatterer in politics, that the assistance expected from us by our allies was not in an army, but in ships, sailors, and money? The argument in favour of an increased army establishment, upon this ground, was therefore false and inconclusive.

Some persons might be of opinion, that this was the time to take advantage of the situation of France. It undoubtedly was so; but how ought this to be done? Not by triumphing in her distress—not by ungenerously attacking her dominions, when she was but ill able to defend them—not by following her example towards this country in the late war; but by convincing her, that while we were generous to her, we were considerate to ourselves, by taking the advantage of her situation to reduce our establishment, with a view to the diminution of our national incumbrances. This was the only mode of retaliation he should prescribe for this country to observe; this appeared to him the best method to improve our finances, to guard against similar disasters, and to repel with vigour any attack which the new constitution and the revived credit of France might hereafter enable her to make upon us. This mode appeared very practicable, as far as the defence of the East and West Indies was concerned; and he would again affirm, that if the defence of our Asiatic and western possessions required at one time an augmentation of our military establishment, that necessity no longer existed; the situation of Europe having entirely removed it. The money they were about to vote that day, would be the least of the expense. Fortifications were erecting, and many chargeable consequences must follow. Supposing that the war between Turkey and the two imperial courts of Austria and Russia was composed; that France had settled her new constitution, and was again herself; that the disputes in the Netherlands were accommodated and his majesty's pacific wishes gratified to their utmost extent; would any man therefore say, we had less reason to apprehend

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danger of attack on our possessions in either of the Indies than at present? And that therefore it would be a more fit period for the reduction of our establishments in those quarters? No one would venture to hazard so absurd an opinion. He was confident no time could be more proper—no period more favourable—for the reduction of our establishment, especially in the West Indies, than the present. He therefore persisted, from the strongest conviction, in the opinions he had entertained on the subject in 1787, and was ready to vote in favour of any amendment applicable to the West India estimate whenever it should be moved. He concluded with expressing his hearty approbation that the discussion had taken place, and sincerely hoped that the army estimates would never be suffered to pass unnoticed by the House as mere matters of form.

Colonel *Phipps* could not avoid considering the particular mode in which the right hon. gentleman had thought proper to allude to the conduct of the military bodies in France during the late commotions, as inapplicable to the drift of his reasoning, and rather a poor compliment to a profession to which he had the honour to belong. The right hon. gentleman should have recollected that we had a long established and happy constitution, and that the case was widely different in France. If the right hon. gentleman had looked to the conduct of the army here in 1780, he would have found much more substantial ground for panegyric. He would there have seen the soldiery of this country feeling as soldiers and citizens, not the first to head anarchy and cruelty, not violent in their conduct, not joining those who were riotously violating the public peace and scattering ruin among individuals, but patiently submitting to insult, and in defiance of provocation maintaining the laws of the realm, and acting under the authority of the civil power. Such conduct was laudable in itself, worthy of imitation, and an example of the value of a well-disciplined army, even under a free constitution like our own. The right hon. gentleman had said, that our enemies were not in a state of attacking our islands in the West Indies. That they were not in such a state, was evidently owing to two reasons; first, to their weakness, and secondly to our strength. We were happily superior in revenue to the French, and there was no occasion for this country to make a war of taxes; but to what did the right hon. gentleman's advice go? what was it but saying, "Don't be as strong as you can: as your rivals are weak, do you be weak also?" He did not know why the extraordinaries of the army in the West Indies should be so great as the right hon. gentleman seemed to apprehend. The question that appeared to him to result from the right hon. gentleman's argument was, were we able or not to defend our possessions in the West Indies? If we were not, we had better give them up altogether. As to the necessity of defending an increase of frontier by a greater augmentation of military force than might have been requisite at a former period, this unavoidably arose from the circumstance of our having lost thirteen provinces.

Lord *Fielding* said, that with as zealous a respect for the profession to which he also had the honour to belong, as that which actuated the hon. colonel, he did not see what reason there was for his taking fire at what Mr. Fox had said respecting the recent conduct of the army in France. With regard to the conduct of our army in the time of the riots in 1780, surely that could not be called a similar case. At that time, a lawless mob had attempted to overawe the legislature then sitting and agitating an important question, which did the highest credit to their feelings, their candour, and their liberality. Let the hon. colonel look to the conduct of the army in 1688, when the feelings of the citizens of the army got the better of their feelings as Roman Catholics. When they were assembled at Black-heath, and the king in person commanded his own regiment, he ordered all that would not stand by him, and were unwilling to obey his inclinations to ground their arms. What was the consequence? The whole corps instantly grounded their arms. Though they were Papists, they got the better of their religious superstitions; they felt for their country, and that army acted as the French army and every army composed of citizens would act; they refused to butcher their fellow citizens.

Mr. *Ford* said, the noble lord had not attended to the different situations of England and France in the years 1780 and 1789. The French army not only attempted to overawe the king, but

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wanted to overawe the government; for such at that time might the committee of Paris be considered.

The Resolutions were agreed to.

Feb. 9. Mr. Gilbert brought up the report of the Army estimates, which were read a first time. On the question, "That the resolutions be read a second time,"

Sir *Grey Cooper* begged leave to trespass upon the indulgence of the House, whilst he took the liberty of making a short statement of facts. The vote in the committee of supply for the army services last year, amounted to 1,518,000*l.* and a fraction. The vote for the extraordinaries of the army, from December 1787 to 1788, was 398,769*l.* making in the whole 1,917,062*l.* The resolutions were all reported to the House, and agreed to. In the budget committee, which was on the 10th of June, the chancellor of the exchequer said, that though this sum of 1,917,000*l.* had been voted for the whole of the army services, not more than 1,518,000*l.* would be demanded. On being asked to explain this assertion, he answered, that money sufficient to defray the expense of the extraordinaries had had already been voted for other services, and would be forthcoming when it was wanted, or some words to that effect. Sir Grey said, that as he did not clearly understand how this large sum could have accumulated, or in whose hands it could have remained, as the law now stood, it was his intention to have made a motion for an account of it to be laid before the House; but being always unwilling to trouble the House with unnecessary motions, he took the liberty of speaking to the chancellor of the exchequer upon it, and of giving his opinion, that unless this sum of 398,000*l.* was voted in the committee of ways and means, it could not be applied or appropriated to defray the expense of the extraordinaries voted in the committee of supply. The right hon. gentleman assured him that an account of the money would be laid in due time before the House, and that it would be voted in the committee of ways and means. He heard no more of the matter in the last session, though he attended his duty in the House on the 17th day of July. On the first day of this session, he found, upon inquiry, that the money had actually been voted in the committee of ways and means, on the 20th of July. He consulted the journals of that day, in which the whole proceeding was stated, and he looked with attention at the act for appropriating the supplies. He was surprised to find in the journal, and in the act, matters which he conceived to be highly informal and irregular. First the account presented from the pay office, and the vote grounded upon it; secondly, the omission in the act for appropriating the supplies, of the resolution for granting 398,000*l.* for the extraordinaries; he meant, on the side of the supply or expenditure; for it was stated on the other side amongst the ways and means.—Sir Grey requested that the journal of the 20th of July last might be read, so far as it related to the account of the vote upon it. He desired also that the 2d and 4th sections of the act for better regulating the pay office might be read [They were read accordingly]. He then observed, that the proceeding stated in the journal was founded on a manifest error which probably arose from the hurry in which the business was transacted, which was not uncommon at the close of a session. The account was moved for, presented, referred to, and voted in the committee on the same day. If it had been ordered to lie on the table for a day or two, it might have occurred to some member of the House, that by the express words of the act which had been read, no money whatsoever for army services should be issued to, or placed, or directed to be placed, in the hands of the paymaster general. How this account, signed by Mr. J. Molesworth, accomptant, came to be presented to the House, he could not yet comprehend. It must have been a false account: there was no money in the hands of the paymaster general applicable to any service; there could be no balance in his hands: it must be false; for, in the consideration and intendment of that House, whatever was contrary to law, was supposed to be impossible in fact. For his own part, he had been too long in the habit of conducting the treasury business in that House, not to acknowledge that errors would arise in the course of that business; and he made all just allowances for such errors, particularly at the close of a session; but in this case, the error was of more considerable magnitude and consequence than any he remembered; and there seemed to be no reason for delaying the presenting the account so long. The second point he had to state, was on the omission of the vote of supply for the

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extraordinaries in the act of appropriation on the side of the expenditure. This was, in his opinion, not warranted by any precedent. He had, with some care, compared the services and grants with the acts for appropriating them, for many years past, and he could find no difference between them. In the year 1764, Mr. Grenville brought to the ways and means 350,000*l.* of savings on former army grants and of non-effective money and vacant pay of several regiments, which was understood to be set against the extraordinaries, amounting to 987,000*l.*; but the whole sum for extraordinaries, was stated in the supply side of the appropriation. In the present case, if the sum of 398,000*l.* had been voted on both sides of the account, then what the chancellor of the exchequer had said in the budget committee, would have been brought about: the 1,518,000*l.* only would have been the expenditure of the army for that year. This was a dry subject, and he should not have dwelt upon it so long, if he were not persuaded that it was of the highest importance to that House, that in the exercise of their great and invaluable privileges, the sole exclusive right of granting aids and supplies to the Crown, and of appropriating the supplies, no variation from the established order of their proceedings should be suffered to arise. This great right was gained by degrees, and with difficulty, after a long struggle and reluctance on the part of the ministers of the Crown. It became firmly established at the revolution, and was the best security for the independence of that House, and the liberties of the people. Any departure from the line of former proceedings, might be interpreted to the prejudice of those rights and privileges. The other House passed this act, of which they could not alter a tittle, on the faith and confidence that the ancient rules and practice of proceeding had been adhered to, and that every thing was right in fact and in law.

Mr. *Steele* said, that the practice always had been, that the extraordinaries of the army, incurred in the last year, were paid in that year, although the House were not called upon to vote them till afterwards. He explained this, by stating, that since Mr. Burke's act had passed for the reform of the war office, all the money in the hands of the paymaster-general at the end of the year, was obliged to be paid into the bank of England, and was thence drawn at the control of the treasury, as it might be called for; and that out of this fund the extraordinaries were paid, but that, nevertheless, it was the duty of the chancellor of the exchequer to bring the estimates down to that House, and move that they might be regularly voted. He detailed the transactions of the last year relative to the extraordinaries of the army which were voted in the month of May, although their services had been incurred and paid. If this had not been done, the chancellor of the exchequer would have been liable to censure, for having applied money to services that had not been voted. As to the appropriation act of the last year, if there had been any error in it, they had been betrayed into it by the appropriation act of the year 1783, which they had closely followed. There might possibly be an inaccuracy of expression in the language of the estimate, which, instead of stating 398,000*l.* in the hands of the paymaster-general, ought perhaps to have stated, that it was in the hands of the governor and company of the bank of England.

Mr. *Pulteney* declared, that he was astonished to discover, that after so many years peace, the army estimates should not only prove higher than they had formerly been, but in a state of progressive increase. The present peace establishment was considerably higher than the former peace establishment; and that was so much higher than it ought to have been, that those in power, not knowing how to dispose of the great number of troops kept up, had sent ten thousand of them to North America, where it was notorious that they were not wanted, and could be of no real service. For the same reason, most probably, it was, that the garrison of Gibraltar was so much greater than it had formerly been. Ministers insisted on the vast importance of that fortress, and took advantage of the popular esteem attached to it, to dispose of part of the superfluous number of troops which they thought proper to maintain. It was said, that the Spaniards would eagerly embrace an opportunity of recovering it, and therefore it ought to be put in a condition to prevent the possibility of surprise. Had not the Spaniards been always desirous of recovering it since it was first taken? Was it in more danger of being surprised now than it had been formerly? Were they more eager now to

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recover it? Were they in a better condition, or more likely to make the attempt? To what end, then, was the garrison nearly doubled?—Another argument for this increased establishment was, that though we had lost thirteen provinces in America, we had now a more extensive land frontier to guard, in order to secure the provinces which remained. Was there any foundation for this argument? Was there the least probability that the United States would molest our frontier? So far from it, that they did not seem in the least inclined to obtain possession of certain posts which were ceded to them by treaty, which, on account of some conditions of that treaty not being fulfilled, were now possessed by our troops. This was another pretence for an additional number of men in America. These troops were said to be of great advantage to our trade; but so far was that from being the case, that he was well convinced the fact was just the reverse, and that the United States were not even desirous of possessing the posts which those troops occupied. The West-India islands were the next source of the increased establishment. Why were they to be more numerously garrisoned than they had hitherto been? Were they in more danger of being attacked? Was France more to be dreaded in that quarter? Was Spain? Or what other power was the cause of our alarm? Another source of expense, connected with the former, was, the fortifications. They had been opposed, and properly; but the plan on which they were now carrying on, was more objectionable than that which was opposed. The only way in which he could conceive fortifications to be useful in these islands was, to fortify some strong post in each, that might be able to hold out till a fleet could come to relieve it. Now he understood they were erecting such on the coast, and so near the water's edge, as to be within the reach of cannon shot from an enemy's ships, against which it was not likely that they could make any long resistance. The planters, it was well known, would never hold out against an army that threatened to burn their plantations. The augmentation of the king's troops in the East Indies, he had supposed might be necessary when the augmentation was made. On further inquiry, he was convinced that it was not; that there were even then too many King's troops in India; and though lord Cornwallis and general Campbell had recommended that augmentation, their joint opinion, much as he respected it, did not induce him to think that there was any good reason for distrusting the native troops; because it was natural for officers who had been accustomed to European troops only, to prefer those whom they had been used to command, to troops which were new to them. He could not, therefore, see reason for this increased establishment, on any of the grounds alleged in support of it. A right hon. gentleman (Mr. Fox) had said in the committee, that there was a certain degree of confidence to be reposed in ministers. That right hon. gentleman had been a minister himself, and might be again, and therefore might wish the House to be more liberal in their confidence to ministers, than he otherwise would. For his own part, he had no idea of that confidence to ministers, which was without responsibility; or that the House was to go on from year to year voting estimates on grounds which they were to suppose of too delicate a nature to be inquired into at the time, and which were never afterwards to be laid before them, to enable them to judge whether their confidence had been well or ill placed.

Mr. Secretary *Grenville* declared, that no man was more decidedly of opinion than he was, that this country was to look for resources in the good state of her finances. It had been his fortune to employ part of his time on that subject, and, on that account, he might, perhaps, be supposed more anxious than others to recommend such measures as tended most directly to prove that his calculations were well founded. But he should think those ministers unworthy of their situations, who, for the sake of any temporary triumph or convenience, should recommend inconsiderable savings, which might afterwards be productive of much greater loss. Were we, for the sake of a present saving, to put our peace establishment on such a footing, as to invite or tempt an attack? The consequence would inevitably be, that the savings of many years would be swallowed up in the course of a few months. Would any gentleman say, that the reduction of two or three regiments would be productive of benefit to the finances of the country, equal to the danger which it might occasion to some of our possessions? The true system of economy, in his opinion, was, to preserve such a peace establishment in every

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quarter, as to deter any enemy from interrupting us in those slower, but surer, operations for restoring our finances, which were compatible with that establishment. The only true question, therefore, was, what was a proper peace establishment? and this question he was at a loss to argue in the way in which the hon. gentleman who preceded him had treated it. Was it possible for him to go through our various possessions, and to state what was to be apprehended, and from what particular power in each? He was surprised that the hon. gentleman should have thought the forts in America a fit subject of discussion, while a negociation was pending respecting them. Whatever might be the opinion now entertained of the importance of those posts, the cession of them, at the conclusion of the peace, was very much blamed. Mr. Grenville then insisted on the strong necessity for sending troops to America; but he termed it a necessity founded on grounds unfit to be explained. From America he proceeded to Gibraltar, observing, that there also ministers could not state where the fortress was weak, where it was strong, and the number of men necessary to defend every new work. On these, as on similar points, ministers must argue on their responsibility. The hon. gentleman demanded, if there was more danger of a surprise now, than there had been formerly? Did he mean to argue, that we ought never to guard against misfortune, till misfortune had actually happened? When he spoke of the West Indies, he even argued against this principle, and maintained, that we ought not to guard against misfortune where it had happened; for there we had been surprised, and our islands had fallen one after another, because they could not hold out, when attacked, till the fleet could come to their relief. The hon. gentleman said, that France was not formidable, and therefore danger was not to be apprehended from that quarter. For his own part, he did not think France very formidable when the augmentation was made two years ago; but still he was of opinion then, as he was now, that such a number of troops ought to be kept in each island, as might be able to defend it in case of attack, till the arrival of a fleet. If the situation of France rendered her less formidable now than she was then, still it was not politic to alter our establishment on every alteration in the circumstances of rival powers. France, three years ago, had been declared by a right hon. gentleman (Mr. Fox) to be even more formidable than she was in the reign of Louis 14th. A few years had produced the present alteration, and a few years more might produce another. It was, therefore, the policy of this country, to maintain a peace establishment on a general principle, and not on a partial view of the comparative situation of France.—Mr. Grenville next touched on the number of troops in the East Indies, observing, that although those troops were paid by the company, and not by the public, he should think it blameable to maintain there a greater number than necessary, as if they were charged immediately on the public; and concluded with his general position, that the peace establishment there, as in other places, ought to be on such a footing, as to hold out no temptation to any power to attack us.

Mr. *Fox* observed, that the right hon. secretary had indulged himself with so boundless a profusion in the use of general terms, as to render it difficult to meet his arguments by particular and pointed answers. Thus was it, that he had chosen to evade all ample and all satisfactory elucidations of the motives which had given rise to the present augmentation of the peace-establishment of the army. Yet, when he made this remark, he did not mean absurdly to contend, that the stinted economy which might operate as an invitation to an attack, and bring on a war, was good economy; for all must acknowledge, that it would be wise to keep up a proper establishment, and that it would be improper to attempt an attack. The right hon. secretary had not, however, given sufficient explanation on the present establishment. There was no man more ready than himself to give every becoming confidence to ministers; he thought a degree of confidence necessary to the well-being of the people; but a confidence for a permanent establishment was grossly absurd; he would not refuse a confidence for one year, or a limited period, but he would go no farther. When particular emergencies presented themselves, and when experiments were on the point of being made, confidence might be reposed in ministers during a few months; yet surely a reliance of this nature was not to be extended to the case of the establishment of armies, from year to year, in time of peace. An hon. gentleman

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(Mr. Pulteney) could not, upon reflection, consider this as a blind confidence: it was, on the contrary, such as he had described, by a former assertion, similar to those which he had made both in and out of place, and such as he did not now mean either to recant or qualify; it was that degree of confidence, without which it was impossible for the executive government to proceed as it ought; and, as a proof that he never meant that such a confidence should not be limited by caution, the House would please to recollect, that, during a former session, when some hon. gentlemen were disposed, on the subject of the affairs of Holland, to place too unbounded a confidence in ministers, he reprobated its extent.—Mr. Fox said that he agreed in part with the right hon. secretary, that it was not proper to discuss the propriety of keeping the American forts pending a negociation; the House were, notwithstanding, entitled to inquire into the state of those negociations at some time or other; and surely, upon the present occasion, it could not be improper to remark, that the session of those posts had, indeed, been blamed by some gentlemen, though he had never considered that as any very material objection to the peace of 1783; nor did he desire to descant on the propriety of occupying or evacuating them now, not being prepared with information on the subject. What he had asserted in the committee, and what the chancellor of the exchequer's facts proved against his theory, was, that we had not so great a number of troops in America now as before the late war, and therefore the argument drawn from the extent of the frontiers, for an increased establishment, fell to the ground. In confutation of the pretext for the necessity of guarding Gibraltar from surprise, it was sufficient to answer, that it had shown itself long to be in no such danger, and that the laudable improvements which it had undergone, during the last war, rendered it less liable to be surprised; yet, if the addition to this garrison had taken place, in consequence of a recommendation from those who were the most qualified to form a judgment, he certainly should not object against relinquishing his opinion to that of men whose professional skill enabled them to decide; but of such circumstances, it was the duty of ministers to take care that the House should be particularly informed.—In the case of the West Indies, which, unquestionably, was of the first importance, he should not hesitate to declare it as his opinion, that the present system, however it might have been brought forward by the minister as a system of perfect defence in those parts, was the most absurd that had ever been adopted: it was ridiculous to talk of keeping up a sufficient force in each island to defend itself at the breaking out of a war; and before the House could come to such a vote, with any degree of propriety, they should be first acquainted with the necessary number of troops for each island. When such a statement should be delivered in, he did not believe that a single military man would declare such a number to be adequate to the purpose for which they were intended; and if so, the augmentation of the army would go still farther: if the islands were to be defended, they must be defended by a fleet; and the best military station, as he had been informed by some of the first military men in the kingdom, was at Halifax, a far healthier station than any of the islands, and from which place the troops could be more readily conveyed to the succour of any particular island, than from one island to another. The voting men to the West Indies he considered to be voting them to their graves. No man was more ready to bow to authority than he was, but he must know to what extent the principle of defending the West Indies by a military force was to go, before he could judge of its propriety. It was upon this point that he considered himself at issue with the right hon. gentleman at the head of affairs; and he felt justified in asserting, that the natural defence of those islands rested in our navy.—The situation of France was, in his mind, a material reason why the present establishment was not necessary; for, after her late behaviour in the Dutch dispute, it was not very likely she should wish to commence hostilities against this country. He was not mortified by the right hon. secretary's noticing his being mistaken in his speculation, made three years since, of the power of France; a change, as sudden as unexpected, had taken place in her affairs, in which some exulted, and of which number, in one point of view, he considered himself as included, from feelings and from principle. To the insinuation which the right hon. secretary had brought against his supposed want of political foresight, he could, without vanity, an-

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swer, that there were few mistakes, indeed, of which he should be less ashamed; because, even if a person, possessing the gift of prophecy, had appeared in any part of Europe, in Paris, or in London, and foretold those extraordinary occurrences which had since arisen, everyword issuing from his lips would only have been regared as a corroboration of his insanity. In three years more, it was possible, she might again have a turn in her affairs; and become more formidable than ever; it was not likely, however, that the growth of power should be so sudden, as to prevent our ability of providing against any of its inimical effects. The difference of pulling down and building up, was very material; a state might fall from a pinnacle of power to actual inertness, but to rise to a state of grandeur, on a sudden, was impossible.—The right hon. secretary had observed, that it was good to be secure, and not to tempt an attack. Certainly. To this he would reply, that if France were at this moment insecure, and tempting an attack, it arose not from a neglect of her garrisons, or of her large establishments. This country could not bear such immense establishments; the being armed at all points, *cap-a-pié*, would ultimately prove her ruin: her reliance ought to be on her revenue, and, by a saving from the establishment in the West Indies, she would strengthen herself. He believed it would be difficult for the right hon. gentleman to prove that any of the islands which were lost, could have been saved by the troops now proposed to be sent. He contended, that it was fit the House should, every year, consider the establishment according to the state of the powers of Europe. At present, viewing those powers, he saw no necessity for our keeping up so large an army. The defence of the East Indies, he imagined, would be more advantageously left to the native troops than to Europeans, who could not endure the climate. He observed the army to be continually increasing; that every pretence was seized to increase it, but none to diminish it. The principle upon which the right hon. secretary went for the defence of the West Indies would ultimately prove the present establishment to be too small; and, another year, a further increase might be expected to be proposed: the principle he went upon proved the present establishment to be too great. The House, if it voted the present establishment, without the knowledge of the number of troops meant to defend each island, must give their vote in a blind confidence.—Reverting to the subject of France, Mr. Fox described her as in a state which could neither fill us with alarm nor excite us to indignation. Surrounded and oppressed by internal divisions and calamities, she could not so suddenly rise superior to their pressure, as to preclude us from a preparation against an impending storm. Had France remained in that formidable and triumphant state by which she was distinguished in the year 1783, he would be one of the first in the House to applaud an augmentation of our peace-establishment. In all our contests with that ancient enemy, our intemperance had seduced us into very disagreeable situations; and we had been frequently obliged to accept of terms which we might have obtained several years before such an agreement. If fortune had now humbled the pride and ambition of this mighty empire—if that anarchy and confusion incidental to such a revolution had struck her people with inertness and inactivity—why should we dread her sudden declaration of hostilities? But even if she were to merge from her misfortunes as suddenly as she was involved in them, he would recommend the argument of the right hon. secretary as a consolation—"The flourishing state of our finances." If, however, an attention to the West Indies were advanced as a justification of the augmentation, he wished to call to the recollection of gentlemen, that our first surprise did not originate last war in that quarter. It was a wise and happy preamble established by our ancestors in the mutiny bill that it should assign as a reason for a standing army, the preservation of the political balance of Europe. He lamented, that it was the nature of kings, ministers, generals, and those of a similar description, to oppose the reduction of the army. If a minister, the professed friend of mankind, should, however, stand forward in favour of such a measure, he must arm himself with points—he must arm himself with resolutions—he must be emboldened to proceed in the reforms. it was a censurable policy to send British troops to the East Indies. He affirmed, that our territories in that part of the globe should be defended by the natives, who, accustomed to the climate, were more able to endure the fatigues of war.—He regretted, that the present administration evinced

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every pretence for an augmentation of the army, without any for reduction. It was playing with the feelings of the people, to come forward every year, and justify augmentations in the military forces. The fortification system was chimerical and absurd. They could not vote foolishly away the money of their constituents; they could not vote a blind and abusive confidence in ministers. He hoped, therefore, that the House would call for an ample explanation of the system so warmly recommended. Nay, as an act of friendship to those gentlemen, he urged them to appear, on such an important occasion, in a free and manly manner, fearless of any consequence, and consulting no dictates, except those of an inflexible integrity.

Mr. *Pitt* said, that whilst justice and candor induced him to admit that those hon. gentlemen, who watched with jealous eyes over the augmentations in the army establishments, were swayed by motives extremely laudable in their nature, he must avow, not merely for himself, but in the name of his right hon. friend, that they had no reason to consider themselves as personally obliged to such as imagined that they strengthened the hands of administration, when they objected against an increase of the army. Any minister would deserve to be regarded as having shamefully violated his duty to the state, were he to discover an inclination to increase establishments on any other ground than the propriety of the measure. From a retrospection of the different events which had taken place, during the course of some preceding years, we might learn the salutary lesson of continuing prepared to resist the approach of external dangers; and he flattered himself, that, in future, neither a fancied security, nor a misguided and narrow economy, would incline us so to lower our military establishments, that foreign enemies might avail themselves of our weakness, and make us the victims of an immediate and formidable attack. With these sentiments, he did not hesitate, at the same time, to confess, that it was but too natural for power to covet the maintenance of large military establishments; and that, therefore, such a predilection ought to be watched with unremitted jealousy. Between the passion of ministers to preserve them, and the eager attempts, whether real or affected, of the opposition for their decrease, perhaps that happy medium might be struck out which would the most effectually support the best interests of the country. As a right hon. gentleman had chosen to remark that his right hon. friend (Mr. Grenville) had confined himself to general points, he for his own part, was ready to admit, as a general principle, that it was bad economy to tempt an attack, from a state of weakness, and thus, by a miserable saving, ultimately incur the hazard of a great expense. It was by opposing the principle of economy on the one hand, to wise policy in timely preparations on the other, that they would come at the fair argument. He never wished for unlimited confidence; but unless ministers enjoyed some degree of confidence, all responsibility must be entirely done away.—With respect to the point of putting Gibraltar in a strong posture of defence, he could affirm, that, upon this occasion, no step had been taken but with the advice of that great and gallant veteran lord Heathfield, the engineer who served under him and many other distinguished military men. He considered it to be the duty of ministers to be particularly careful in the safety of that fortress, which the events of the last war, and the last peace, had proved to be invaluable. Spain and France had always looked upon it as one of our most enviable acquisitions; and therefore, any minister would prove particularly reprehensible, who did not take care to have it guarded as impregnably as possible against surprise.—Concerning the state of the West Indies, his majesty's servants had endeavoured to obtain the best military information, and he had no objection to lay before the House every account to which the right hon. gentleman (Mr. Fox) had alluded, or any other paper which the House might require on the subject. Mr. Pitt contradicted the doctrine laid down, that the islands would be safe if we had a superior fleet in those seas: their reliance on such a fleet had been, in the last war, proved false in reason and in fact; the fate of more than one island, when our fleet was superior, evinced the necessity of a land force, to hold out till relief could be brought; and, after all, the whole expense for the additional strength proposed for the islands, did not annually exceed forty or fifty thousand pounds. The right hon. gentleman who had, in so marked a language, described the West Indies as the grave of our soldiers, would probably have somewhat, moderated his expression, could he have

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recollected that the mortality in that quarter arose from the influx of raw and inexperienced troops; and that even this circumstance justified the erection of strong places in the island for the purpose of inuring our soldiers to the climate.—Adverting to Mr. Fox's speculation of the power of France three years ago, Mr. Pitt drew a conclusion, that it would not be proper for ministers, who felt not quite so confident on the present circumstances, as that right hon. gentleman had on former, to neglect, for momentary reasons, the safety of their country, with no better excuse, when mischief should ensue, than the being able to say, "Who would have thought it?" The present convulsions of France must, sooner or later, terminate in general harmony and regular order; and though the fortunate arrangements of such a situation might make her more formidable, it might also render her less obnoxious as a neighbour. He hoped that he might rather wish, as an Englishman, for that, respecting the accomplishment of which he felt himself interested as a man, for the restoration of the tranquillity of France, though it appeared to him as distant. Whenever the situation of France should become restored, it would prove freedom rightly understood; freedom resulting from good order and good government; and thus circumstanced, France would stand forward as one of the most brilliant powers in Europe: she would enjoy that just kind of liberty which he venerated, and the invaluable existence of which it was his duty, as an Englishman, peculiarly to cherish; nor could he, under this predicament, regard with envious eyes, an approximation in neighbouring states to those sentiments which were the characteristic features of every British subject. Easier, he would admit with the right hon. gentleman, was it to destroy than rebuild; and therefore he trusted that this universally-acknowledged position would convince gentlemen that they ought, on the present question, not to relax their exertions for the strength of the country, but endeavour to regain our former pinnacle of glory, and to improve, for our security, happiness and aggrandisement, those precious moments of peace and leisure which were before us.

Mr. *Burke** spoke a considerable time in answer to various arguments which had been insisted upon by Mr. Grenville and Mr. Pitt, for keeping an increased peace-establishment, and against an improper jealousy of the ministers, in whom a full confidence, subject to responsibility, ought to be placed, on account of their knowledge of the real situation of affairs; the exact state of which, it frequently happened, that they could not disclose, without violating the constitutional and political secrecy, necessary to the well-being of their country. He said, in substance that confidence might become a vice, and jealousy a virtue, according to circumstances. That confidence, of all public virtues, was the most dangerous, and jealousy in an House of Commons, of all public vices, the most tolerable; especially where the number and the charge of standing armies, in time of peace, was the question.

That in the annual mutiny-bill the annual army was declared to be for the purpose of preserving the balance of power in Europe. The propriety of its being larger or smaller depended, therefore upon the true state of that balance If the increase of peace-establishments demanded of parliament agreed with the manifest appearance of the balance, confidence in ministers, as to the particulars, would be very proper. If the increase was not at all supported by any such appearance, he thought great jealousy might, and ought to be, entertained on that subject.

That he did not find, on a review of all Europe, that, politically, we stood in the smallest degree of danger from any one state or kingdom it contained; nor that any other foreign powers than our own

* The above report of Mr. Burke's speech upon this interesting occasion was published by authority, with the following brief introduction:

"Mr. Burke's speech on the report of the Army Estimates has not been correctly stated in some of the public papers. It is of consequence to him not to be misunderstood. The matter which incidentally came into discussion is of the most serious importance. It is thought that the heads and substance of the speech will answer the purpose sufficiently. If in making the abstract, through defect of memory, in the person who now gives it, any difference at all should be perceived from the speech as it was spoken, it will not, the editor imagines, be found in any thing which may amount to a retraction of the opinions he then maintained, or to any softening in the expressions in which they were conveyed." See Burke's Works, 8vo. edit. Vol. V. p. 1.

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allies were likely to obtain a considerable preponderance in the scale.

That France had hitherto been our first object, in all considerations concerning the balance of power. The presence or absence of France totally varied every sort of speculation relative to that balance.

That France is, at this time, in a political light to be considered as expunged out of the system of Europe. Whether she could ever appear in it again, as a leading power, was not easy to determine: but at present he considered France as not politically existing; and most assuredly it would take up much time to restore her to her former active existence—*Gallos quoque in bellis floruisse audivimus*, might possibly be the language of the rising generation. He did not mean to deny that it was our duty to keep our eye on that nation, and to regulate our preparation by the symptoms of her recovery.

That it was to her strength, not to her form of government which we were to attend; because republics, as well as monarchies, were susceptible of ambition, jealousy, and anger, the usual causes of war.

But if, while France continued in this swoon, we should go on increasing our expenses, we should certainly make ourselves less a match for her, when it became our concern to arm.

It was said, that as she had speedily fallen, she might speedily rise again. He doubted this. That the fall from an height was with an accelerated velocity: but to lift a weight up to that height again was difficult, and opposed by the laws of physical and political gravitation.

In a political view, France was low indeed. She had lost every thing, even to her name.

"———Jacet ingens littore truncus,
"Avulsumque humeris *caput*, et sine no-
"*mine* corpus."*

He was astonished at it—he was alarmed at it—he trembled at the uncertainty of all human greatness.

Since the House had been prorogued in the summer, much work was done in France. The French had shown themselves the ablest architects of ruin that had hitherto existed in the world. In that very short space of time, they had completely pulled down to the ground their monarchy, their church, their nobility, their law, their revenue, their army, their navy, their commerce, their arts, and their manufactures. They had done their business for us as rivals, in a way which twenty Ramilies or Blenheims could never have done it. Were we absolute conquerors, and France to lie prostrate at our feet, we should be ashamed to send a commission to settle their affairs, which could impose so hard a law upon the French, and so destructive of all their consequence, as a nation, as that they had imposed upon themselves.

France, by the mere circumstance of its vicinity, had been, and in a degree always must be, an object of our vigilance, either with regard to her actual power, or to her influence and example. As to the former, he had spoken; as to the latter (her example), he should say a few words: for by this example, our friendship and our intercourse with that nation had once been, and might again become, more dangerous to us than their worst hostility.

In the last century, Louis 14th had established a greater and better disciplined military force than ever had been before seen in Europe, and with it a perfect despotism. Though that despotism was proudly arrayed in manners, gallantry, splendour, magnificence, and even covered over with the imposing robes of science, literature, and arts, it was, in government, nothing better than a painted and gilded tyranny: in religion, a hard, stern intolerance, the fit companion and auxiliary to the despotic tyranny which prevailed in its government. The same character of despotism insinuated itself into every court of Europe: the same spirit of disproportioned magnificence; the same love of standing armies, above the ability of the people. In particular, our then sovereigns, king Charles and king James, fell in love with the government of their neighbour, so flattering to the pride of kings. A similarity of sentiments brought on connexions equally

* Mr. Burke, probably, had in his mind the remainder of the passage, and was filled with some congenial apprehensions:
"Hæc finis Priami fatorum; hic exitus illum
"Sorte tulit, Trojam incensam, & prolapsa videntem
"Pergama; tot quondam populis, terrisque, superbum
"Regnatorem Asiæ. Jacet ingens littore truncus,
"Avulsumque humeris caput, & sine nomine corpus.
"*At me* tum primum sævus circumstetit horror;
"Obstupui: *subiit chari genitoris imago.*"—

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dangerous to the interests and liberties of their country. It were well that the infection had gone no farther than the throne. The admiration of a government, flourishing and successful, unchecked in its operations, and seeming, therefore, to compass its objects more speedily and effectually, gained something upon all ranks of people. The good patriots of that day, however, struggled against it. They sought nothing more anxiously than to break off all communication with France, and to beget a total alienation from its councils and its example; which by the animosity prevalent between the abettors of their religious system and the assertors of ours, was, in some degree, effected.

This day the evil is totally changed in France: but there is an evil there. The disease is altered; but the vicinity of the two countries remains, and must remain: and the natural mental habits of mankind are such, that the present distemper of France is far more likely to be contagious than the old one; for it is not quite easy to spread a passion for servitude among the people: but in all evils of the opposite kind, our natural inclinations are flattered. In the case of despotism, there is the *fœdum crimen servitutis;* in the last the *falsa species libertatis;* and accordingly, as the historian says, *pronis auribus accipitur.*

In the last age, we were in danger of being entangled by the example of France in the net of a relentness despotism. It is not necessary to say any thing upon that example; it exists no longer. Our present danger from the example of a people, whose character knows no medium, is, with regard to government, a danger from anarchy; a danger of being led through an admiration of successful fraud and violence, to an imitation of the excesses of an irrational, unprincipled, proscribing, confiscating, plundering, ferocious, bloody, and tyrannical democracy. On the side of religion, the danger of their example is no longer from intolerance, but from atheism; a foul, unnatural vice, foe to all the dignity and consolation of mankind; which seems in France, for a long time, to have been embodied into a faction, accredited, and almost avowed.

These are our present dangers from France; but, in his opinion, the very worst part of the example set, is in the late assumption of citizenship by the army, and the whole of the arrangement, or rather disarrangement, of their military.

He was sorry that his right hon. friend (Mr. Fox) had dropped even a word expressive of exultation on that circumstance; or that he seemed of opinion that the objection from standing armies was at all lessened by it. He attributed this opinion of Mr. Fox entirely to his known zeal for the best of all causes, liberty. That it was with a pain inexpressible he was obliged to have even the shadow of a difference with his friend, whose authority would be always great with him, and with all thinking people.—"Quæ maxima semper censetur nobis, et *erit* quæ maxima semper." His confidence in Mr. Fox was such, and so ample, as to be almost implicit. That he was not ashamed to avow that degree of docility. That when the choice is well made, it strengthens instead of oppressing our intellect. That he who calls in the aid of an equal understanding, doubles his own. He who profits of a superior understanding, raises his power to a level with the height of the superior understanding he unites with. He had found the benefit of such a junction, and would not lightly depart from it. He wished almost, on all occasions, that his sentiments were understood to be conveyed in Mr. Fox's words; and that he wished, as amongst the greatest benefits he could wish the country, an eminent share of power to that right hon. gentleman; because he knew that, to his great and masterly understanding, he had joined the greatest possible degree of that natural moderation, which is the best corrective of power; that he was of the most artless, candid, open, and benevolent disposition; disinterested in the extreme; of a temper mild and placable, even to a fault; without one drop of gall in his whole constitution.

That the House must perceive, from his coming forward to mark an expression or two of his best friend, how anxious he was to keep the distemper of France from the least countenance in England, where he was sure some wicked persons had shown a strong disposition to recommend an imitation of the French spirit of reform. He was so strongly opposed to any the least tendency towards the means of introducing a democracy like theirs, as well as to the end itself, that much as it would afflict him, if such a thing could be attempted, and that any friend of his

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could concur in such measures, (he was far, very far, from believing they could;) he would abandon his best friends, and join with his worst enemies to oppose either the means or the end: and to resist all violent exertions of the spirit of innovation, so distant from all principles of true and safe reformation; a spirit well calculated to overturn states, but perfectly unfit to amend them.

That he was no enemy to reformation. Almost every business in which he was much concerned, from the first day he sat in that House to that hour, was a business of reformation; and when he had not been employed in correcting, he had been employed in resisting abuses. Some traces of this spirit in him now stand on their statute book. In his opinion, any thing which unnecessarily tore to pieces the contexture of the state, not only prevented all real reformation, but introduced evils which would call, but perhaps, call in vain, for new reformation.

That he thought the French nation very unwise. What they valued themselves on, was a disgrace to them. They had gloried (and some people in England had thought fit to take share in that glory) in making a revolution: as if revolutions were good things in themselves. All the horrors, and all the crimes of the anarchy which led to their revolution, which attend its progress, and which may virtually attend it in its establishment, pass for nothing with the lovers of revolutions. The French have made their way through the destruction of their country, to a bad constitution, when they were absolutely in possession of a good one. They were in possession of it the day the states met in separate orders. Their business, had they been either virtuous, or wise, or had been left to their own judgment, was to secure the stability and independence of the states, according to those orders, under the monarch on the throne. It was then their duty to redress grievances.

Instead of redressing grievances, and improving the fabrick of their state, to which they were called by their monarch, and sent by their country, they were made to take a very different course. They first destroyed all the balances and counterpoises which serve to fix the state, and to give it a steady direction; and which furnish sure correctives to any violent spirit which may prevail in any of the orders. These balances existed in their oldest constitution; and in the constitution of this country; and in the constitution of all the countries in Europe. These they rashly destroyed, and then they melted down the whole into one incongruous, ill-connected mass.

When they had done this, they instantly, and with the most atrocious perfidy and breach of all faith among men, laid the axe to the root of all property, and consequently of all national prosperity, by the principles they established, and the example they set, in confiscating all the possessions of the church. They made and recorded a sort of institute and digest of anarchy, called the rights of man, in such a pedantic abuse of elementary principles as would have disgraced boys at school; but this declaration of rights was worse than trifling and pedantic in them; as by their name and authority they systematically destroyed every hold of authority by opinion, religious or civil, on the minds of the people. By this mad declaration they subverted the state; and brought on such calamities as no country, without a long war, has ever been known to suffer, and which may in the end produce such a war, and perhaps, many such.

With them the question was not between despotism and liberty. The sacrifice they made of the peace and power of their country was not made on the altar of freedom. Freedom, and a better security for freedom than that they have taken, they might have had without any sacrifice at all. They brought themselves into all the calamities they suffer, not that through them they might obtain a British constitution; they plunged themselves headlong into those calamities, to prevent themselves from settling into that constitution, or into any thing resembling it.

That if they should perfectly succeed in what they propose, as they are likely enough to do, and establish a democracy, or a mob of democracies, in a country circumstanced like France, they will establish a very bad government; a very bad species of tyranny.

That the worst effect of all their proceeding was on their military, which was rendered an army for every purpose but that of defence. That if the question was, whether soldiers were to forget they were citizens, as an abstract proposition, he could have no difference about it; though as it is usual, when abstract principles are to be applied, much was to be

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thought on the manner of uniting the character of citizen and soldier. But as applied to the events which had happened in France, where the abstract principle was cloathed with its circumstances, he thought that his friend would agree with him, that what was done there furnished no matter of exultation, either in the act or the example. These soldiers were not citizens; but base hireling mutineers, and mercenary sordid deserters, wholly destitute of any honourable principle. Their conduct was one of the fruits of that anarchic spirit, from the evils of which a democracy itself was to be resorted to, by those who were the least disposed to that form, as a sort of refuge. It was not an army in corps and with discipline, and embodied under the respectable patriot citizens of the state in resisting tyranny. Nothing like it. It was the case of common soldiers deserting from their officers, to join a furious, licentious populace. It was a desertion to a cause, the real object of which was to level all those institutions, and to break all those connexions, natural and civil, that regulate and hold together the community by a chain of subordination; to raise soldiers against their officers; servants against their masters; tradesmen against their customers; artificers against their employers; tenants against their landlords; curates against their bishops; and children against their parents. That this cause of theirs was not an enemy to servitude, but to society.

He wished the House to consider, how the members would like to have their mansions pulled down and pillaged, their persons abused, insulted, and destroyed; their title deeds brought out and burned before their faces, and themselves and their families driven to seek refuge in every nation throughout Europe, for no other reason than this; that without any fault of theirs, they were born gentlemen, and men of property, and were suspected of a desire to preserve their consideration and their estates. The desertion in France was to aid an abominable sedition, the very professed principle of which was an implacable hostility to nobility and gentry, and whose savage warhoop was "à l'Aristocrate," by which senseless, bloody cry, they animated one another to rapine and murder; whilst abetted by ambitious men of another class, they were crushing every thing respectable and virtuous in their nation, and to their power disgracing almost every name, by which they formerly knew there was such a country in the world as France.

He knew too well, and he felt as much as any man, how difficult it was to accommodate a standing army to a free constitution, or to any constitution. An armed, disciplined body is, in its essence, dangerous to liberty; undisciplined, it is ruinous to society. Its component parts are, in the latter case, neither good citizens, nor good soldiers. What have they thought of in France, under such a difficulty as almost puts the human faculties to a stand? They have put their army under such a variety of principles of duty, that it is more likely to breed litigants, pettyfoggers, and mutineers, than soldiers.* They have set up, to balance their crown army, another army, deriving under another authority, called a municipal army—a balance of armies, not of orders. These latter they have destroyed with every mark of insult and oppression. States may, and they will best, exist with a partition of civil powers. Armies cannot exist under a divided command. This state of things he thought, in effect, a state of war, or, at best, but a truce instead of peace, in the country.

What a dreadful thing is a standing army, for the conduct of the whole, or any part of which, no man is responsible! In the present state of the French crown army, is the crown responsible for the whole of it? Is there any general who can be responsible for the obedience of a brigade? Any colonel for that of a regiment? Any captain for that of a company? And as to the municipal army, reinforced as it is by the new citizen-deserters, under whose command are they? Have we not seen them, not led by, but dragging their nominal commander with a rope about his neck, when they, or those whom they accompanied, proceeded to the most atrocious acts of treason and murder? Are any of these armies? Are any of these citizens?

We have in such a difficulty as that of fitting a standing army to the state, he conceived, done much better. We have not distracted our army by divided principles of obedience. We have put them under a single authority, with a simple (our common) oath of fidelity; and we

* They are sworn to obey the king, the nation, and the law.

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keep the whole under our annual inspection. This was doing all that could be safely done.

He felt some concern that this strange thing, called a revolution in France, should be compared with the glorious event, commonly called the revolution in England; and the conduct of the soldiery, on that occasion, compared with the behaviour of some of the troops of France in the present instance. At that period, the prince of Orange, a prince of the blood royal in England, was called in by the flower of the English aristocracy to defend its ancient constitution, and not to level all distinctions. To this prince, so invited, the aristocratic leaders who commanded the troops, went over with their several corps, in bodies, to the deliverer of their country. Aristocratic leaders brought up the corps of citizens who newly enlisted in this cause. Military obedience changed its object; but military discipline was not for a moment interrupted in its principle. The troops were ready for war, but indisposed to mutiny.

But as the conduct of the English armies was different, so was that of the whole English nation at that time. In truth, the circumstances of our revolution (as it is called) and that of France, are just the reverse of each other in almost every particular, and in the whole spirit of the transaction. With us it was the case of a legal monarch attempting arbitrary power—in France, it is the case of an arbitrary monarch, beginning, from whatever cause, to legalize his authority. The one was to be resisted, the other was to be managed and directed; but in neither case was the order of the state to be changed, lest government might be ruined, which ought only to be corrected and legalized. With us we got rid of the man, and preserved the constituent parts of the state. There they get rid of the constituent parts of the state, and keep the man. What we did was in truth and substance, and in a constitutional light, a revolution, not made, but prevented. We took solid securities; we settled doubtful questions; we corrected anomalies in our law. In the stable fundamental parts of our constitution we made no revolution; no, nor any alteration at all. We did not impair the monarchy: perhaps it might be shown that we strengthened it very considerably. The nation kept the same ranks, the same orders, the same privileges, the same franchises, the same rules for property, the same subordinations, the same order in the law, in the revenue, and in the magistracy; the same Lords, the same Commons, the same corporations, the same electors.

The church was not impaired. Her estates, her majesty, her splendor, her orders and gradations continued the same. She was preserved in her full efficiency, and cleared only of a certain intolerance, which was her weakness and disgrace. The church and the state were the same after the revolution that they were before, but better secured in every part.

Was little done, because a revolution was not made in the constitution? No! Every thing was done; because we commenced with reparation, not with ruin. Accordingly the state flourished. Instead of lying as dead, in a sort of trance, or exposed, as some others, in an epileptic fit, to the pity or derision of the world, for her wild, ridiculous, convulsive movements, impotent to every purpose but that of dashing out her brains against the pavement, Great Britain rose above the standard, even of her former self. An æra of a more improved domestic prosperity then commenced, and still continues, not only unimpaired, but growing, under the wasting hand of time. All the energies of the country were awakened. England never presented a firmer countenance, or a more vigorous arm, to all her enemies, and to all her rivals. Europe under her respired and revived. Every where she appeared as the protector, assertor, or avenger of liberty. A war was made and supported against fortune itself. The treaty of Ryswick, which first limited the power of France, was soon after made: the grand alliance very shortly followed, which shook to the foundations the dreadful power which menaced the independence of mankind. The states of Europe lay happy under the shade of a great and free monarchy, which knew how to be great, without endangering its own peace, at home, or the internal or external peace of any of its neighbours.

Mr. Burke said he should have felt very unpleasantly if he had not delivered these sentiments. He was near the end of his natural, probably still nearer to the end of his political career; that he was weak and weary; and wished for rest. That he was little disposed to contro-

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versies, or what is called a detailed opposition. That at his time of life, if he could not do something by some sort of weight of opinion, natural or acquired, it was useless and indecorous to attempt any thing by mere struggle. *Turpe senex miles.* That he had for that reason little attended the army business, or that of the revenue, or almost any other matter of detail for some years past. That he had, however, his task. He was far from condemning such opposition; on the contrary, he most highly applauded it, where a just occasion existed for it, and gentlemen had vigour and capacity to pursue it. Where a great occasion occurred, he was, and while he continued in parliament would be, amongst the most active and the most earnest, as he hoped he had shown on a late event. With respect to the constitution itself, he wished few alterations in it; happy, if he left it not the worse for any share he had taken in its service.

Mr. *Fox* declared, that he rose with a concern of mind which it was almost impossible to describe, at perceiving himself driven to the hard necessity of making at least a short answer to the latter part of a speech, to which he had listened with the greatest attention, and which, some observations and arguments excepted, he admired as one of the wisest and most brilliant flights of oratory ever delivered in that House. There were parts of it, however, which he wished had either been omitted, or deferred to some other and more fit occasion. His right hon. friend, in alluding to him, had mixed his remarks with so much personal kindness towards him, that he felt himself under a difficulty in making any return, lest the House should doubt his sincerity, and consider what he might say as a mere discharge of a debt of compliments. He must, however, declare, that such was his sense of the judgment of his right hon. friend, such his knowledge of his principles, such the value which he set upon them, and such the estimation in which he held his friendship, that if he were to put all the political information which he had learnt from books, all which he had gained from science, and all which any knowledge of the world and its affairs had taught him, into one scale, and the improvement which he had derived from his right hon. friend's instruction and conversation were placed in the other, he should be at a loss to decide to which to give the preference. He had learnt more from his right hon. friend than from all the men with whom he had ever conversed.—His right hon. friend had grounded all which he had said on that part of a speech made by him on a former day, when he wished that his right hon. friend had been present, in which he had stated, that if ever he could look at a standing army with less constitutional jealousy than before, it was now; since, during the late transactions in France, the army had manifested that on becoming soldiers they did not cease to continue citizens, and would not act as the mere instruments of a despot. That opinion, he still maintained. But, did such a declaration warrant the idea, that he was a friend to democracy? He declared himself equally the enemy of all absolute forms of government, whether an absolute monarchy, an absolute aristocracy, or an absolute democracy. He was adverse to all extremes, and a friend only to a mixed government, like our own, in which, if the aristocracy, or indeed either of the three branches of the constitution, were destroyed, the good effect of the whole, and the happiness derived under it, would, in his mind, be at an end. When he described himself as exulting over the success of some of the late attempts in France, he certainly meant to pay a just tribute of applause to those who, feelingly alive to a sense of the oppressions under which their countrymen had groaned, disobeyed the despotic commands of their leaders, and gallantly espoused the cause of their fellow citizens, in a struggle for the acquisition of that liberty, the sweets of which we all enjoyed.—He begged, however, not to be misunderstood in his ideas of liberty. True liberty could only exist amidst the union and co-operation of the different powers which composed the legislative and the executive government. Never should he lend himself to support any cabal or scheme, formed in order to introduce any dangerous innovation into our excellent constitution; he would not, however, run the length of declaring, that he was an enemy to every species of innovation. That constitution, which we all revered, owed its perfection to innovation; for, however admirable the theory, experience was the true test of its order and beauty. His right hon. friend might rest assured, that they could never differ in principles, however they might differ in

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their application. In the application of their principles, they more than once had experienced the misfortune of differing, particularly in regard to the representation of the people in parliament, and they might occasionally continue to differ in regard to other points, which depended rather on the application of their principles, than on their principles themselves. The scenes of bloodshed and cruelty which had been acted in France no man could have heard of without lamenting; but still, when the severe tyranny under which the people had so long groaned was considered, the excesses which they committed, in their endeavour to shake off the yoke of despotism, might, he thought, be spoken of with some degree of compassion; and he was persuaded that, unsettled as their present state appeared, it was preferable to their former condition, and that ultimately it would be for the advantage of this country that France had regained her freedom. What had given him the greatest uneasiness, in hearing the latter part of his right hon. friend's speech, was, lest from its being well known that he had long considered it as the boast and happiness of his life to have lived on terms of the most perfect confidence and intimacy with his right hon. friend, an impression might be left on the minds of that House, or on the minds of the public, that there had existed some grounds for suspicion that he could so far forget himself, upon the score either of principles or of duty, as at any moment to countenance, or rather not vehemently to reprobate all doctrines and all measures inimical to the constitution. Again, therefore, must he repeat, under the most solemn assurances, to his right hon. friend, that he never would lend himself to any cabal, nor, on any occasion, act in a manner incompatible with the principles which he had so repeatedly professed, and which he held in common with his right hon. friend. He differed, however, from his right hon. friend, in his opinion of the revolution in 1688. From that period we had, undoubtedly, to date the definition and confirmation of our liberties; and the case was certainly more parallel to the revolution in France, than his right hon. friend seemed willing to allow. The reason why France had been so long settling her constitution, and why we had so soon adjusted ours in 1688, was owing to there being so much despotism to destroy in France, and so little which called for destruction when the revolution in our government took place; a fact which of itself was sufficient to convince his right hon. friend that there was no ground whatever for the apprehensions which he had that day stated. He imputed this warmth of his right hon. friend, and the extent to which he had pushed this argument, to a laudable, but extreme, anxiety, lest any man should be rash enough to hazard an attempt to render what had passed in France an object of imitation in this country. In conclusion, Mr. Fox observed, that he should embrace a future opportunity of entering more amply into a discussion respecting the affairs of France, as far as they may ultimately operate either in favour of, or against this country, should the House consider it necessary to fix upon such a topic for their investigation.

Mr. *Burke* said, that he could, without the least flattery or exaggeration, assure his right hon. friend, that the separation of a limb from his body could scarcely give him more pain, than the circumstance of differing from him, violently and publicly, in opinion. It was not even in his idea to insinuate that his right hon. friend would lend his aid to any plan concerted for the support of dangerous and unconstitutional procedures. He knew the contrary. His motive for the remarks which he had made was, to warn those who did not possess the brilliant talents and illumined penetration of his right hon. friend, whose moderation was one of the leading features of his political character, from entertaining sentiments which he conceived to be adverse to good government. He was exceedingly glad, however, that he had delivered himself so plainly in his former speech, since what he had said had drawn from his right hon. friend an explanation not more satisfactory to his mind, than he was persuaded it was to the House, and all who heard it. With regard to innovation, he was the last man living who was an enemy to reform. Indeed, he must be regarded as a fool, if he, who had himself been a known proposer of reforms of various descriptions, should now stand up as an enemy of every reform. What he was anxious to protect and preserve, were the grounds of the constitution itself, which ought ever to be kept sacred. Of clubs and associations he had, in general, disapproved; and he should always resist, to the utmost of his power and ability, any attempt to

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destroy or enfeeble the first principles of our unrivalled form of government, in the defence of which, were it to become necessary, the last drop of his blood should be expended. Having recurred to the example of the conduct of France, during a time of peace, and contended that, as was the case in the reign of Louis 14th, it had frequently proved more dangerous to this country than a state of open war, Mr. Burke, in conclusion, became again the warm panegyrist of Mr. Fox, and repeated and reinforced the doctrine which he had maintained upon the subject of the revolution.

Mr. *Sheridan* declared, that he rose with the greatest regret; but that the very reasons which his right hon. friend (Mr. Burke) had given for the sentiments which he had that day uttered, namely, an apprehension of being supposed to acquiesce in the opinions of those for whom he entertained the highest regard, and with whom he had uniformly acted, operated also on his mind, and made him feel it a duty to declare, that he differed decidedly from his right hon. friend in almost every word that he had uttered respecting the French revolution. Mr. Sheridan added some warm compliments to Mr. Burke's general principles; but said that he could not conceive how it was possible for a person possessing such principles, or for any man who valued our own constitution, and revered the revolution that obtained it for us, to unite with such feelings an indignant and unqualified abhorrence of all the proceedings of the patriotic party in France. — He conceived theirs to be as just a revolution as ours, proceeding upon as sound a principle and a greater provocation. He vehemently defended the general views and conduct of the national assembly. He could not even understand what was meant by the charge against them of having overturned the laws, the justice, and the revenues of their country. What were their laws? The arbitrary mandates of capricious despotism. What their justice? The partial adjudications of venal magistrates. What their revenues? National bankruptcy. This he thought the fundamental error of his right hon. friend's argument, that he accused the national assembly of creating the evils, which they had found existing in full deformity at the first hour of their meeting. The public creditor had been defrauded; the manufacturer was without employ; trade was languishing; famine clang upon the poor; despair on all. In this situation, the wisdom and feelings of the nation were appealed to by the government; and was it to be wondered at by Englishmen, that a people, so circumstanced, should search for the cause and source of all their calamities; or that they should find them in the arbitrary constitution of their government, and in the prodigal and corrupt administration of their revenues? For such an evil, when proved, what remedy could be resorted to, but a radical amendment of the frame and fabric of the constitution itself? This change was not the object and wish of the national assembly only; it was the claim and cry of all France, united as one man for one purpose. He joined with Mr. Burke in abhorring the cruelties that had been committed; but what was the striking lesson, the awful moral, that was to be gathered from the outrages of the populace? What, but a superior abhorrence of that accursed system of despotic government, which had so deformed and corrupted human nature, as to make its subjects capable of such acts; a government that sat at naught the property, the liberty, and lives of the subject; a government that dealt in extortion, dungeons, and tortures; that sat an example of depravity to the slaves it ruled over. And, if a day of power came to the wretched populace, it was not to be wondered at, however it was to be regretted, that they acted without those feelings of justice and humanity, which the principles and the practice of their governors had stripped them of. At the same time, if there were any persons, who, for the purposes of their own private and personal ambition, had instigated those outrages, they, whatever their rank, birth, or fortune, deserved the execration of mankind. Justice, however, required, that no credit should be given to mere rumours on such a subject.— But, whatever these outrages were, or whoever had caused them, was the national assembly in any respect responsible?—the national assembly, who, in all cases, had interfered with zeal and alacrity for the maintenance of order and just subordination. What action of theirs authorized the appellation of a "bloody, ferocious, and tyrannical democracy?" Language like this had been but too prevalent in some of the ministerial prints, and he had always seen it with regret; for, to traduce the national assembly, was,

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in his mind, to libel the whole French nation: whatever was great or good in France, must be looked for there or no where.—Mr. Sheridan next attacked Mr. Burke's declaration, that the French might have received a good constitution from their monarch. What! was it preparing for them in the camp of marshal Broglio? or were they to search for it in the ruins of the Bastile? He avowed a most eager and sanguine hope that the despotism of France would never be restored. He avowed this, not only as a friend to the general rights of mankind, but as a politician, speaking only for the advantage of his country. He was convinced, that it was for the interest of Great Britain, that the despotism of France should be destroyed. Whoever looked into our history would come at once to the opinion, that the greater part of the expense of blood and treasure of this nation had been owing to the circumstance of France being a despotic government, and, being a despotic government, being what all despotisms ever had been, a government of unprincipled ambition, and without faith or justice in its dealings with other nations. Let France amend her constitution,—she might become more powerful in her permanent resources, but she certainly would be a juster, worthier, and more peaceable nation, and more likely to act towards us, as we did now towards her. The French were naturally a brave and generous people; their vice had been their government. In hoping, however, that that government might be radically amended, he would not be thought to approve of wanton persecution of the nobility, or any insult to royalty: it was consistent with the spirit of the most perfect constitution, that the monarch should retain all the powers, dignities, and prerogatives becoming the first magistrate of so great a country. Mr. Sheridan went into other parts of the discussion respecting the French revolution, and paid high compliments to the marquis de la Fayette, monsieur Baily, and others of the French patriots; and concluded with expressing his regret that so many friends of the minister had held sentiments apparently contrary, and above all, that his right hon. friend should have suffered his humanity, however justly appealed to, to have biassed his judgment on so great a question.—Mr. Sheridan concluded, with expressing a farther difference with Mr. Burke with respect to our own revolution of 1688. He had never been accustomed to consider that transaction as merely the removal of one man and the substitution of another, but as the glorious æra that gave real and efficient freedom to this country, and established, on a permanent basis, those sacred principles of government and that reverence for the rights of men, which he, for one, could not value here, without wishing to see diffused throughout the world.

Mr. *Burke* said, that he most sincerely lamented over the inevitable necessity of now publicly declaring, that henceforth, his hon. friend and he were separated in politics; yet, even in the very moment of separation, he expected that his hon. friend—for so he had been in the habit of calling him—would have treated him with some degree of kindness; or at least, if he had not, for the sake of a long and amicable connexion, heard him with some partiality, have done him the justice of representing his arguments fairly. On the contrary, he had, as cruelly as unexpectedly, misrepresented the nature of his remarks. The hon. gentleman had thought proper to charge him with being the advocate of despotism, though, in the beginning of his former speech, he had expressly reprobated every measure that carried with it even the slightest appearrance of despotism. All who knew him could not avoid, without the most unmerited violation of natural justice, but acknowledge that he was the professed enemy of despotism, in every shape, whether, as he had before observed, it appeared as the splendid tyranny of Louis the 14th, or the outrageous democracy of the present government of France, which levelled all distinctions in society. The hon. gentleman also had charged him with having libelled the national assembly, and stigmatised them as a bloody, cruel, and ferocious democracy. He appealed to the House, whether he had uttered one single syllable concerning the national assembly, which could justify such a construction as the hon. gentleman had put upon his words. He felt himself warranted in positively repelling the imputation, because the whole tenor of his life, he hoped, had proved that he was a sincere and firm friend to freedom; and, under that description, he was concerned to find that there were persons in this country, who entertained theories of government, incompatible with the safety of the state, and who were, perhaps, ready

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to transfer a part, at least, of that anarchy which prevailed in France, to this kingdom, for the purpose of effectuating their designs. Yet, if the hon. gentleman considered him as guilty, why did he not attack him as the foe of his country? As to the charge of abusing the national assembly, it might seem almost sufficient to answer, What is the national assembly to us? But, he declared that he had not libelled the national assembly of France, whom he considered very little in the discussion of these matters; that he thought all the substantial power resided in the republic of Paris, whose authority guided, or whose example was followed by all the republics of France. The republic of Paris had an army under their orders, and not under those of the national assembly. The hon. gentleman had asked from whence the people of France were to expect a better constitution? whether from marshal Broglio, at the head of his army; or were they to look for it amidst the dungeons of the Bastile? Was that a fair and candid mode of treating his argument? or was it what he ought to have expected in the moment of departed friendship? On the contrary, was it not evident that the hon. gentleman had made a sacrifice of his friendship, for the sake of catching some momentary popularity? If the fact were such, however, even greatly as he should continue to admire the hon. gentleman's talents, he must tell him that his argument was chiefly an argument *ad invidium*, and that all the applause for which he could hope from clubs, was scarcely worth the sacrifice which he had chosen to make for so insignificant an acquisition.

Colonel *Phipps* thought it his duty to justify his argument in a former debate, to which an hon. gentleman had alluded, and to assert, that when he compared the different conduct of the English soldiery, in the riots of 1780, with the conduct of the French soldiery, in the course of the last four months, he meant to rest his comparison on that part of the conduct of those of the French army only who left Paris and went to Versailles, with an intention to overawe the national assembly, then deliberating on the forms of the new constitution. Upon this occasion, he should beg leave to mark the essential difference between the French officer and soldier, and the English officer and soldier. In France, neither had any ideas of civil rights or political liberty; whereas here, both were sharers in the common liberty distributed to all under our excellent constitution: born to participate its blessings, they were taught, from their infancy to look up to it as the great object of their support. The officers especially, being men of property, knew that their own interest and that of the rest of the community, were implicated together; and that, on the security of the one depended the preservation of the other. He complimented Mr. Burke on the arguments which he had used in defence of the constitution, and concurred with him in all he had advanced on this subject. As to the comparison between the English and the French revolutions, it was ill grounded; the one having been accompanied by the happiest effects, the other by anarchy and confusion.

Mr. *Pitt* could not withhold the tribute of his applause from his hon. friend (colonel Phipps) for the able and eloquent manner in which he had defended his argument on the preceding Friday; neither could he avoid expressing his approbation of one part of the speech of an hon. gentleman (Mr. Sheridan); but he thought that he saw a design in his commendation of what he had said, and that it was intended by insinuation to mark the difference between what had fallen from him and what had fallen from a right hon. gentleman over the way; and if that had been the object of the hon. gentleman's applause, he begged leave to disclaim any pretension to it. He repeated the expression in question in nearly the very words which he had before used, and he insisted upon it, that the words by no means bound him down, so as to prevent his declaring that he agreed with Mr. Burke in every point he had urged relative to the late commotions in France. That right hon. gentleman had delivered himself with warmth; but a warmth proceeding from a motive which did the right hon. gentleman the highest honour; and he should feel himself bound to acknowledge, that the sentiments which the right hon. gentleman had that day professed, respecting the constitution, inspired him with a most sincere and lasting gratitude. He agreed with the right hon. gentleman, that the grounds of the constitution ought never to be departed from, but should, on all occasions, be held sacred; and the manner in which he had that day stood forward, and pledged himself to maintain those grounds invio-

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late, and protect them from all attempts to shake and to enfeeble them, under whatever mask they might be made, would entitle him to the gratitude of his contemporary fellow citizens, as well as of posterity. With respect to some particulars, the right hon. gentleman and he might differ, but not he flattered himself, in the fundamental principles. Mr. Pitt, having mentioned his disinclination to interfere with the latter part of the debate, remarked, that he did not conceive any vindication was necessary in favour of his noble friend (lord Valletort), for what he had said on the first day of the session, with such distinguished ability, respecting the transactions which had taken place in France. In every one of the observations of the noble viscount he fully concurred. He drew the distinction between, what he termed the happy and genuine freedom enjoyed by Englishmen under the constitution of this country, and the unqualified nominal liberty of the French at present, which was, in fact, the most absolute, direct, and intolerable slavery. He avoided entering into any discussion of the particulars of what had happened in France, declaring, that he did not think such a discussion proper for that House; much less would it become any man, standing in his situation, to bring it directly forward as a subject for investigation.

Sir *George Howard* said, that as a right hon. gentleman (Mr. Burke) had asked for his opinion whether the stationing troops in the different islands in the West Indies was a wise and proper measure, he should venture to assure him, that he considered the measure as originating from sound policy. He commended Mr. Pitt's mode of explaining the army estimates on Friday, declaring, that he never in his life had heard estimates opened with more perspicuity, or more satisfactorily. He thanked colonel Phipps for his defence of the British army, and begged to have it understood that he concurred in every sentiment he had uttered on the subject. With regard to France, he did not think what had passed, with respect to her internal concerns, a fit subject for discussion in that House; he heartily wished her better days than she had seen, and that she might so settle her constitution, that her people might be more happy under it, and Europe be more at rest than heretofore. He fully agreed with Mr. Burke in all he had said respecting the propriety of maintaining the constitution free from innovation, and declared that he not only had hitherto uniformly supported it to the utmost of his power, but that he was determined to continue to give it every support which his feeble voice could administer.

Viscount *Fielding* justified the remarks which he had made on the preceding Friday, respecting the conduct of some British forces in the year 1688, and repeated, that the French soldiery acted on principles highly honourable to themselves, both as soldiers and citizens. He gave the House an account of his having lately visited St. Omer's, where he had seen a large body of French soldiers, in whose praise he spoke warmly.

The several resolutions were then agreed to.

Debate in the Commons on the Debtors Relief Bill.] Feb. 17 Mr. Burges moved the order of the day for the second reading of the bill "for the relief of debtors, for the more speedy and effectual payment of creditors, and for the regulation of gaols, so far as relates to imprisoned debtors."

Sir *John Miller* said, that he, for one, should certainly vote in favour of the bill's going to a committee; he well knew that the hon. gentleman who had brought it in, had been actuated by the purest motives only, and the most benevolent intentions. He had bestowed the most unremitting attention upon its correction and improvement; for three years past, he had suffered it to be considered and reconsidered, to be committed and re-committed; he had shown, upon all occasions, the utmost readiness to adopt every meliorating alteration that had been proposed to him. His bill had been frequently printed with such corrections, improvements, and amendments; it had been in the hands of all the members of that House; it had been repeatedly dispersed over the kingdom, and had, he understood, been submitted for revision to many eminent persons of the profession of the law. And, was a bill where objects were so interesting to the community at large, to be rejected at the second reading? A bill which embraced almost every thing that was great, solemn, or sacred, in this or any other legislature—debtor, creditor, and imprisonment?—He did not take upon himself to say that the bill did not want infinite correction and amendment.

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But then, let them try to amend it in a committee, let them make it as perfect as they could make it; then, and not till then, should they have done their duty by it. Learned gentlemen had observed, that such a bill ought to have originated in the other House, where the advice of the judges could be had. He would remind the learned gentlemen, that such bills had been repeatedly brought into the other House, where our great law luminaries give their constant attendance; and had been as repeatedly rejected. And by whom? By the learned profession in the other House, who admitted their necessity, objected to their principle or provisions in the gross, and who, without attempting to amend them, or to substitute better in their stead, were perfectly content with their total rejection. If the *indocti* of both Houses must always fail in such bills, why would not the *juris legumque periti* take the business out of their hands, and give them something that should be legal, efficient, constitutional, and substantial? If the learned gentlemen refused to do this, because it might be, in some degree troublesome or intricate, and would always be ready to show the inefficacy of the endeavours of the unlearned, then this most grievous mischief must necessarily remain unredressed. The learned gentlemen, like physicians called to a sick man, admit that he his very ill, disapprove of all the remedies that have been proposed for him, but refuse to prescribe any thing themselves for his relief or comfort. The learned gentlemen now present are as eminent and as able as any that have ever been of their profession: they can have the assistance of all the judges; they are well acquainted with the grievances, and they can suggest direct remedies for them. If those learned gentlemen would give them a hope that they would employ a few leisure hours in that great, that necessary, that benevolent undertaking, he would submit, for one; and he dared to say, the honourable promoter of the bill would have no objection to give place to such instructed and enlightened substitutes. If they would not, then he confessed he was for doing the best he could with the bill in the committee; and if they failed, they would still have the consolation of having done their duty.

Mr. *M. A. Taylor* wished to give the hon. gentleman who had introduced the bill, every credit for his intention, but he did not think it would answer the hon. gentleman's own object. He objected to the principle, and therefore he would confine his arguments to that at present. The bill proceeded on the idea that the protection held out to debtors, by the subsisting laws, was inadequate and wanted extension. He begged leave to deny the fact, and to be allowed to maintain, that the debtor was as much protected by the present laws as he could be, and that the protection which the humane consideration of the legislature had provided for debtors, would rather be weakened and diminished, than strengthened and increased by any extension of the subsisting laws. With regard to the first enacting clause of the bill, obliging the creditor to give bail for the prosecution of the action, it tended to put all creditors to inconvenience, and with some it would certainly operate so as to prevent their attempting to recover their debt by prosecution, because, in many cases, the creditor might not be able to procure the bail required. Mr. Taylor adverted to the security against a false and groundless action by the common mode; an affidavit made by the plaintiff, that the defendant stood indebted to him to the specific amount when he sued a writ. He asked what better security was requisite when the person, hardy enough to take a false oath, thereby incurred all the pains and penalties of perjury. Would any man in his senses risk that great danger? and if he did, was not the law sufficiently severe? There had, indeed, recently happened a case, in which a man had ventured to hazard the danger; but what followed? The man was tried, convicted, and stood, the other day only, in the pillory at Charing-cross, and was afterwards to be transported for seven years; which was, surely, an exemplary punishment. The new mode enacted by the bill, would give no additional security to the creditor, but on the contrary, would load him with intolerable inconvenience, and open the door to fresh frauds. His grand objection against the bill was, that it infringed upon the bankrupt laws, and paid a total disregard to the wise principles on which they were founded. Those laws had been introduced merely with a view to benefit merchants and traders; men who, by fairly venturing in trade and commerce, had met with misfortunes, and therefore were peculiarly entitled to the humane consideration of

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the legislature of a commercial country. But the provisions of the present bill made no such distinction; the bill afforded the fraudulent debtor the same relief as the honest but unfortunate tradesman. If a man involved himself in debt, merely because he chose to live in an extravagant manner, the distress which he incurred originated in his own fault, and the legislature had always taken care to distinguish between a man's faults and his misfortunes. In the present bill, there was not a single clause which discriminated between the one and the other.—Mr. Taylor reprobated the bill, as well as those others formerly introduced of a similar tendency, as a species of bastard bankrupt laws, a spurious sort of law of debtor and creditor, which tended to weaken the authority of all the laws under which merchants and traders had lived with the greatest security during so long a period. He agreed in wishing that all bills relating to debtor and creditor originated in the House of Lords, where the assistance of the judges could be procured. He had conversed with one of the judges, upon the subject, the preceding day, and the learned judge had concurred with him in opinion, that the bill was inapplicable to its object, erroneous in its principle, big with inconvenience and difficulty: that it could do no good whatever, but might produce infinite mischief. If there was any ground for complaint, that the law, as it stood, was not sufficiently favourable to the honest and unfortunate debtor, he knew no remedy but to make some partial regulation or extension of the Lords' act. With regard to the present bill, he considered it to be a direct attack on the conduct of the judges, and he saw it in every point of view to be so improper, that he could not sufficiently express his astonishment that a professional man should have brought it forward.

Mr. *Wigley* said, that the bill naturally divided itself under three heads; that part which referred to debtors, that which took into consideration the security of creditors, and that which referred to the regulation of gaols. With regard to the first, the new mode of obliging creditors to find bail before they could proceed with their actions against debtors, instead of accelerating the means of recovering debts, tended to produce delay. He contended that all the benefits aimed at by the bill were obtainable with much less difficulty under the present laws. If it were to pass into a law, it would create so much additional business in Westminster hall, that unless the terms were to last from the 1st of January to the 31st of December, the business could not be dispatched; nor would the courts prove large enough to hold the number of persons whom the bill would necessarily oblige to come from all parts of the kingdom to appear in open court, if such a burthen were imposed on the shoulders of the judges personally, as the bill would lay upon them. He objected to giving any more summary power to justices of the peace, and chose rather to rest the property and interest of the subject on the constitutional security—the trial by jury. He deemed it improper, that any man should hold out so dangerous a doctrine that a debtor might easily, and after a short confinement only, obtain his liberty. It was bad policy in a commercial country like this to suggest such a doctrine; not that the bill, in fact, would enable a debtor so to obtain his liberty. His great objection to the bill was, that it held out such a hope, and disappointed it altogether, since it rendered it more difficult than ever for a debtor to get out of gaol.

Sir *James Johnstone* was not surprised that all the lawyers were against the bill; since, if it passed, he in his conscience believed it would check the progress of litigation, by taking from its necessity. He had ever considered the imprisoning of the body of the debtor, after it was evident that he had surrendered his all, a disgrace to a free country. In Scotland, the law was quite the reverse. There certainly was something deficient in the law of debtor and creditor here, and something that called for a remedy; whether that was best to be given by extending the Lords' act, or by such a bill as the present, he could not pretend to say. The bill might be imperfect; but he nevertheless thought its principle good, and could not believe it incapable of amendment. He hoped the wisdom of that House was fully equal to its improvement. He thought, therefore, that the bill ought to go to a committee, though there were parts of it he disapproved. The bread and water clause he abhorred, and wished to see it expunged. He also reprobated the preventing the debtor from being visited in prison. It too frequently happened, that when once a man was thrown into gaol, he was deserted by all but a few friends, whose humanity in-

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duced them to come to him, and contribute to his support.

Mr. *Jekyll* said, that the bill failed of its object in all its parts; it encumbered the creditor; did not relieve the debtor, and so far from regulating the gaols, contained a clause for imprisoning the gaoler. That part of it which related to an abolition of the rules, he deemed unanswerably objectionable. That the judges thought differently from the framer of the bill on that subject, was clear, from an application known to have been made to the court of King's bench, to obtain from the court an enlargement of the rules of the King's-bench prison; the judges had unanimously resisted it, the court declaring that, in their opinion, the rules, as established long ago, and sanctioned by ancient custom, ought neither to be enlarged nor diminished, nor interfered with at all. He believed that the court of Common pleas felt equally with respect to the rules of the Fleet. He descanted on the great use of day rules to the debtors thrown into prison in the moment of wrath and resentment of their creditors; the day rule afforded them an opportunity of calling on their creditors when their indignation had subsided, and by appealing to their compassion, of obtaining their release. Day rules, therefore, liberally considered, were highly useful to the community.

Mr. *Burges* said, that with regard to several of the objections urged, it was evident, that the gentlemen could not have read the bill as it stood at present, but had imagined that it was the same with the one introduced three sessions ago. The present bill came before the House, after a bill upon the same subject had been repeatedly submitted to committees, both above stairs and in the House. The committees above stairs had been open committees; and he should not do the gentlemen who had attended justice, if he did not acknowledge, that a great deal of light had been thrown on the subject, and that he himself had derived much information and instruction respecting it from those gentlemen. In consequence of that information, he had altered the bill, and made several omissions, which he thought real improvements. Among other omissions, if the present bill were carefully perused, it would be found that there was no clause for imprisoning a gaoler, no clause for giving a justice of the peace summary jurisdiction, nor any bread and water clause. An hon. gentleman had divided the bill into three parts—the relief of debtors, the security of creditors, and the regulation of gaols. It was true, the bill might be so divided with propriety. Debtors confined in gaols in this metropolis, and in Surrey, formed by far the largest proportion of the imprisoned debtors in the kingdom; all the debtors in gaol in the different counties of England not amounting to more than the number confined in the gaols of the metropolis. Mr. Burges stated the numbers in each of the law court gaols in and near London, and their aggregate amount. He divided debtors, in his consideration of what was necessary to be done respecting them, into three parts—before they were arrested, after they were arrested and imprisoned, and after they had obtained their liberty; and in those separate points of view, it was worth the while of the legislature to regard them. With respect to the affidavit which had been so much relied on by Mr. Taylor, there was not the smallest solemnity or seriousness in the transaction, nor was there an opportunity for the judge to put the least check upon the grossest fraud, or the most direct perjury. The affidavit was drawn up by the attorney for the plaintiff, and settled between him and the judge's clerk, at the judge's chambers, after which the clerk opened the door of the room in which the judge sat, and administered the oath, without the judge's knowing one tittle of the business to which the affidavit referred.—Those gentlemen who had charged him with wishing to introduce novelties, were mistaken; he was only bringing back the real law of the land, which had been perverted by practice. The law, as originally introduced, and as it actually stood, though abandoned in practice, required that every plaintiff should give two *bonâ fide* securities for every prosecution commenced. Instead of doing so, it had for years prevailed, that John Doe and Richard Roe, who were not easily to be found, were made parties in every action; and thus, by fiction and fallacy, the salutary law of the realm was evaded and abused. Nor was this the only perversion of practice. The judges were not, in all cases, sufficiently strict with attornies, notorious for the most irregular, nefarious, and disgraceful practices. After its having been proved that they had acted in a way highly dishonourable

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and dishonest, there were instances in which the judges (for what reason he knew not; perhaps, when explained, it might be at least a plausible one) had suffered such attornies to continue to practise as attornies of their court. But he meant not to shelter himself under vague and general assertions. He now held in his hand a variety of documents which were equal to the proof, that he did not advance a light or frivolous assertion, when he declared that he had proceeded upon the ground of facts. He selected a few cases from the bundle, and stated them to the House to prove the abuses which had grown out of the prevailing perversion of the practice of the law. The first he mentioned was the case of Mr. Miller, a merchant of undoubted character and credit. Mr. Miller felt himself obliged to arrest a tradesman, his debtor for 700*l.*; that debtor found means, in revenge, to cause Mr. Miller to be arrested for 40,000*l.*, not one shilling of which he owed: and, as the practice was to require double bail, although an express act of parliament forbad the taking larger bail than the amount of the original debt, Mr. Miller was to find bail for 80,000*l.*, the enormous amount of which rendered it impossible for him to procure bail, and he was obliged to go to the King's-bench prison, where he continued six weeks, before he could obtain relief from the court, which he was enabled to obtain, by the humanity of the marshal of the King's-bench, who, though a gaolor, was a man of feeling, and struck with the atrociousness of the case, brought it before the court. No sooner was he at liberty, than the debtor contrived to have him arrested again, by a writ from the court of Common pleas, for 20,000*l.*, and he was kept in the Fleet 191 days, before he was able to obtain relief. Another case was that of Mr. Gretton, a magistrate every way respectable, who having heard of a dreadful murder and robbery committed on a French jeweller, took the most active part in tracing the murderers, and recovering the jewels stolen. Being at a loss how to dispose of the property of a foreigner, or to whom he should deliver it, he applied to the French ambassador, who advised him to detain the jewels till he should write to France, and procure some information respecting them. In the interim, Mr. Gretton was arrested on account of his detaining the property, by a writ for 10,000*l.* while discharging the duties of his office, and dragged from the chair of magistracy with all the indignity due to a common felon; and he must have gone from the judgment seat to gaol, if some distinguished persons had not immediately stood forward, and become his bail. Afterwards, the property being valued, the whole amount at which it was appreciated proved to be no more than 128*l.* A third case, was that of a person named Curtis, who was married to a most amiable woman, by whom he had eight children. This man wanted not only to separate himself from her, but to marry another; and because his wife would not comply with his modest proposal, he contrived to get her arrested, and sent to Newgate, where she was obliged to continue many months, and to procure a subsistence for herself and children as well as she could. At length, by the art of an attorney skilled in the crooked practice of the law, by the operation and influence of distress, and by other obvious causes, the woman was prevailed on to compromise with her husband for the sake of a quiet life, and in order to obtain her liberty. Mr. Burges stated the name of the attorney, and said that the case was authenticated by a member of that House (Mr. Prothonotary Mainwaring) and the judges of the court of common pleas had nevertheless suffered the attorney to remain on the roll of that court. Captain Williams, who had a bond debt due to him for 45*l.* employed a sheriff's officer to recover the amount from the granter of the bond. On his calling on the officer a few days after, to inquire what he had done, he was told, to his great surprise, that he had a writ against him, at the suit of his debtor, for a large sum, which had been sued out by an honest attorney. On application to the attorney, he offered to liberate captain Williams, on condition of his giving up the bond. This captain Williams refused, and he was actually thrown into prison, where he remained 191 days. This, Mr. Burges said, with the three other cases that he had before stated, were but samples of the many hundreds of other instances of abuse of the practice of the law that had come to his knowledge. He denied the truth of the argument, that, as the practice stood at present, debtors, or persons improperly arrested, could easily or speedily procure their discharge. He contended that the shortest period would be two terms; and,

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in most cases, five. He observed, that the imprisonment of a debtor was originally intended as a coercion, where a man would not pay by honest and fair means; that he had endeavoured to avail himself of this principle of coercion, and that it would be found that his bill went to that point. He had striven to make imprisonment such a process, as to enable a man to pay his debts, but not to operate against him as a cause of mere vexation. Considering, therefore, the importance of the bill, considering that its principle was such as every liberal minded man must approve, he could not but think that it ought to go to a committee; and he now pledged himself to meet every objection which could be offered, and fairly argue its merits.—With regard to rules, upon which must stress had been laid, sure he was, that instead of answering the humane end adverted to in respect to day rules, they were the occasion of all sorts of vice, and debauchery. Even the practice of obtaining day rules had grown into abuse. A day rule was not now obtained as a favour to the hard case of any individual debtor, but was an indulgence bought for money, without pretence of any particular ground for its being granted to one debtor more than to another. The only purchase was its price, and he who had money enough in his pocket was sure to obtain it. When the House knew that the emoluments of the marshal of the King's-bench were not less than 5000*l.* a year for day rules, they would, perhaps, think that the matter deserved some inquiry. He reminded the House of the extent of the rules of the different prisons, and the opportunities they afforded for fraud and iniquity. The rules of the Fleet extended up a part of the Fleet market and of Ludgate-hill, and to various adjoining places. The rules of the King's-bench were much more extensive; they comprehended almost all St. George's Fields, and great part of the Borough. Every man had it in his power to procure his being arrested, and he might say, "I like to live on Ludgate-hill; I think it the pleasantest part of London;" or he might carry on any trade in St. George's Fields, to the amount of many thousands of pounds, and set his creditors at utter defiance, by being able to tell them, "I am in prison already; I choose to live here, and you may do your worst, I won't pay you a shilling." Nor was it a day rule only that was to be bought; debtors had been permitted to go during a fortnight to Bath and Brighthelmstone, or wherever they pleased. The marshal said, "I have a security for the debt, and the debtor's return; what need have I to care?" With regard to the allowance to debtors, while in prison, being intended to be fixed at 3*s.* 6*d.* per week from the creditor, that certainly was the sum with which he meant to propose to fill up the blank in the clause when the bill should be before a committee.—As the law stood, a debtor was entitled to his groats after execution was entered up; he meant to entitle him to them from his first being sent to gaol; and in respect to the size of the sum, it was fixed by a gentleman whom no person could, with justice, suppose as either incompetent to decide upon such an occasion, or devoid of compassion; he meant Mr. Howard. The bill also gave the judges a power of discharging debtors where the discharge would be proper. If it was made to appear to them that a man really could not pay his debts, the court superintending the particular prison which might be in question, could say, "this man is incapable of satisfying his creditors," and they could let him go out. With regard to the observation, that the bill ought to have originated in the House of Lords, or to its having been the practice for such bills to originate there, the practice had been exactly the reverse. All the bills of a similar nature, excepting one, originated in the House of Commons. The single instance to the contrary was, the act commonly called the first Lords' act, which was found to be so defective when brought into practice, that it was obliged to be explained and amended the next session, to be altered again by a third bill, and at last to be suffered to expire as a bad, impolitic, and irremediable act of parliament. With respect to the assistance of the judges, a notable instance was at hand, of their readiness to interfere in bills of that nature. In 1728, a noble lord introduced such a bill, and after much and frequent discussion, an end was put to it, and on the 4th of May, 1728, an order was made in the House of Lords, that the judges do prepare and bring in a proper bill. Some time elapsed, and the judges being at length called upon to account for not having obeyed the order of the House, they answered by their principal or head, that they neither had nor could comply with the directions of

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the House, for that drawing bills was not within their province. They held it to be their duty to explain and administer the laws with equal justice after they were made; but they conceived it to be no part of their duty to interfere in making them. Mr. Burges took notice of the charge of presumption urged against him as a professional man for having introduced such a bill. He said, undoubtedly he had been presumptuous enough to introduce the bill, and he would carry his presumption farther, and endeavour to prevail on a committee to assist him in rendering the bill practicable. He had been bred to the law, though other pursuits had now changed his habits; but for ten years of his life he had attended to the subject of his bill more closely than perhaps other professional men had an opportunity of doing. He had by degrees acquired a knowledge of the abuses which prevailed to such an extent, as made him determine, as soon as he came into parliament, to bring forward a bill calculated to correct the evils which had crept into the practice of the laws respecting debtor and creditor. He had introduced the bill with that view three sessions ago; but he was free to confess that his own ideas upon the subject were considerably improved by the parliamentary discussions it had undergone, and he was so satisfied that the grounds of the present bill were such as could be maintained, that he hoped the House would agree that the bill ought to be referred to a committee.

The *Attorney General* said, he had continued silent until he had heard the arguments of his hon. friend who spoke last, because it had appeared to him, that every gentleman who introduced a bill, was bound to state his reasons for thinking such a bill necessary before he had a right to expect an answer; and though he was not prepared to controvert or argue upon the cases which he had selected, he could not but observe that they might be overcharged in their colouring, and not precisely warrant the description which his hon. friend, with an indisputable purity of motive, had given them. For his part, he conceived that such a bill as the present ought not to originate with a member of that House. He had no doubt but that all the cases adduced by his hon. friend were well founded; nevertheless, whatever facts the industry of an individual might collect, relative to so very important a consideration as the present, which went to the extent of a total change of the law between debtor and creditor, and an alteration of the entire system of the bankrupt laws he thought them not a becoming ground for the House to proceed upon. It was true that the ancient practice under existing laws was, that every plaintiff for an action of debt, should come with a pledge for prosecution of his suit, and produce two sufficient securities for the due performance of all the obligations of the process he was about to originate; but it was clear, from the practice having subsided, that it was found to be pregnant with inconvenience, oppression, and injustice. That House in considering the law of actions for debt, ought not to confine themselves to their own circle, nor to characters of their own rank. It was the lower order of traders whose interests were to be regarded. To such men a few pounds might be a more serious object, and an object of greater difficulty than some hundreds to others of an easy fortune and a more elevated situation in life. In respect to the first proposition of the present bill, it enacted that every creditor who commenced a suit for the recovery of a debt, should give bail that he would maintain the action, carry it through, and answer for the consequences. There were many worthy individuals to whom it would be a greater difficulty to procure the bail, than it would be a severe loss to forfeit and abandon the original debt; and if the bill were to pass, and the practice which had so long, for wise reasons, subsided, were to become resumed, it would grow into the most flagrant abuse, and the scandal of jew bail, which was now in every body's mouth, would be nothing in comparison to the mischievous frauds which would predominate. With regard to the bankrupt laws, he admired their principle, though he saw it often abused, and the practice grounded upon it exceedingly exceptionable; but as to the rules of the respective prisons, he agreed completely, that they required some regulation. He had more than once had occasion, not in a civil, but in a criminal case, to examine that matter with some attention, and he found that the rules were taken a most unwarrantable advantage of. On one side of Ludgate-hill several fraudulent and illegal lottery offices were kept open in defiance of law; and a dishonest debtor, if he chose it, might live in an elegant country house in Surrey, and hold his creditors in the most sovereign con-

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tempt. Yet surely, after all, any regulation of so serious a nature as that in question, ought not to rest on the exertion or authorities produced by any individual, however respectable. If the legislature thought an alteration of the existing statutes respecting debtor and creditor, and consequently affecting the bankrupt laws, necessary, it should begin with the appointment of a committee of the whole House, to inquire into the state of the gaols, and to proceed with all the solemnity of the forms which belonged to that House of parliament.

Mr. *Burges* said, there was something so fair and candid in his hon. and learned friend's proposal, and so advisable, that he was willing to close with it immediately. Such a mode of proceeding was well worth adopting; and at the same time that he should feel himself relieved in having the responsibility of the measure taken off his shoulders, he should find cause for some degree of triumph on the proof that his labours had ended so auspiciously. With the consent of the House he would withdraw his motion.

The *Speaker* said, that as the motion for reading the bill a second time had been made, the more regular way would be to negative that motion, and then move, "that the bill be read a second time that day three months."

The motion for reading the bill a second time was then negatived; after which it was ordered, That the said bill be read a second time that day three months.

Debate on Mr. Fox's Motion for the Repeal of the Test and Corporation Acts.] March 2. Mr. *Fox*, agreeably to the notice he had given, rose to make his intended motion for the repeal of the Test and Corporation Acts. He requested the act of the 15th of Charles 2nd, for the well governing and regulating of corporations, as well as the act of the 25th of the same reign, for the prevention of danger from Popish recusants, might be severally read by the clerk. He then observed, that as the question he was about to submit to the consideration of the House that day, had excited such great and general expectation, as well in that House as in the country at large, he held it his indispensable duty to state the reasons which induced him, on the present occasion, to move the question, which in two former sessions had been brought forward by another hon. gentleman, and had been so ably argued and so amply discussed by the House. He was confident, the cause, of which he stood that day the advocate, had better have remained in the hands to which it had been entrusted on former occasions: he, however, assured the House, that he did not obtrude himself upon those most interested in the success of the motion; nor was he under any particular obligations to the parties who considered themselves aggrieved and oppressed by the acts in question; yet, regarding their cause as the cause of liberty, and truth, to which he should ever profess the most unalienable attachment, he did not hesitate to stand forward the advocate of civil and religious liberty, even in favour of men, who had, on different occasions, acted hostilely towards him. It afforded him, however, a matter of triumph and exultation to observe that, though in former times he had not enjoyed much of the confidence of that description of men who were the object of his motion, yet his vanity was not a little flattered, by the good opinion they must now entertain of him, whom they had solicited with such importunity to conduct the management of their cause, notwithstanding their former difference of political opinions.

The present was the period which demanded of public men a free and candid explanation of their political sentiments. In considering the case of the dissenters, the first argument which naturally presented itself was that spirit of intolerance and persecution which dictated the oppressive acts, the present subject of grievance and complaint. He conceived it utterly impossible to view any species of persecution, whether civil or religious, without horror and detestation; and therefore the proceedings of a neighbouring nation, in regard to that part of their constitution so far, in his opinion, from being a subject of censure, merited the esteem and applause of a great people; who were investigating the first principles with a view to secure the rights of men, and were wisely applying them to the abolition of that spirit of persecution and intolerance which had, for a long period, disgraced their government. Were we to recur to first principles, and observe the progress of the Christian religion, in the first stages of its propagation, we should perceive that no vice, evil, or detriment, had ever sprung from toleration. Persecution had always been a fertile source of much evil; perfidy, cruelty, and

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murder had often been the consequence of intolerant principles. The massacres at Paris, the martyrdoms of Smithfield, and the executions of the inquisition, were among the many horrid and detestable crimes which had, at different times, originated solely from persecution. To suppose a man wicked or immoral, merely on account of any difference of religious opinion, was as false as it was absurd; yet this was the original principle of persecution. Morality was thought to be most effectually enforced and propagated by insisting on a general unity of religious sentiments; the dogmas of men in power were to be substituted in the room of every other religious opinion, as it might best answer the ends of policy and ambition: it proceeded entirely on this grand fundamental error—that one man could better judge of the religious opinion of another than the man himself could. Upon this absurd principle, persecution might be consistent; but in this it resembled madness; the characteristic of which was acting consistently upon wrong principles. The doctrines of Christianity might have been expected to possess sufficient influence to counteract this great error: but the reverse had proved to be the case. Torture and death had been the auxiliaries of persecution—the grand engines used in support of one particular system of religious opinion, to the extermination of every other. Toleration proceeded on the direct contrary principles. Its doctrines, he was sorry to say, even in this enlightened age, were but of a modern date in any part of the world. Before the reign of king William, it had not a footing in England. The celebrated act of toleration of that reign, notwithstanding the boasted liberality of its principle, was narrow, confined, and incomplete. What was it but a toleration of thirty-four articles out of thirty-nine, prescribed as the standard of belief in matters of religion? Were any tolerated who did not subscribe to the thirty-four articles in question? No. Strict and implicit conformity to these was enjoined on accepting any civil employment. Persecution, indeed, originally might be allowed to proceed on this principle of kindness—to promote a unity of religious opinion, and to prevent error in the important matters of Christian belief. But did persecution ever succeed in this humane and truly charitable design? Never. Toleration, on the other hand, was founded on the broad and liberal basis of reason and philosophy. It consisted in a just diffidence of our own particular opinion, and recommended universal charity and forbearance to the world around us. The true friend of toleration ought never to impute evil intentions to another, whose opinions might, in his apprehension, be attended with dangerous consequences. The man professing such opinions, might not be aware of any evil attached to his principles; and therefore, to ascribe to such a person any hostile intention, when his opinions only might be liable to exception, was but the height of illiberality and uncharitableness.

Thus, much obloquy and unfounded calumny had been used to asperse the character of the Roman Catholics, on account of the supposed tendency of their religious tenets to the commission of murder, treason, and every other species of horrid crimes, from a principle of conscience. What was this, but a base imputation of evil intentions, from the uncharitable opinions entertained of that profession as a sect? He lamented their errors; rejected their opinions, which appeared dangerous; was ready to confide in their good professions; and was willing to appeal to the experience of this enlightened age, if they had not been accused unjustly, and condemned uncharitably. For, would any man say, that every duty of morality was not practised in those countries in which the Roman Catholic religion was established and professed? Would it not be an imputation as palpably false, as it would be illiberal, for any one to utter such a foul, unmerited, and indiscriminate calumny? But this was always the haughty, arrogant, and illiberal language of persecution, which led men to judge uncharitably, and to act with bitter intolerance. Persecution always said, "I know the consequences of your opinion better than you know them yourselves." But the language of toleration was always amicable, liberal, and just: it confessed its doubts, and acknowledged its ignorance. It said, "Though I dislike your opinions, because I think them dangerous, yet, since you profess such opinions, I will not believe you can think such dangerous inferences flow from them, which strike my attention so forcibly." This was truly a just and legitimate mode of reasoning, always less liable to error, and more adapted to human affairs. When we

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argued *à posteriori*, judging from the fruit to the tree, from the effect to the cause, we were not so subject to deviate into error and falsehood, as when we pursued the contrary method of argument. Yet, persecution had always reasoned from cause to effect, from opinion to action, which proved generally erroneous; while toleration led us invariably to form just conclusions, by judging from actions and not from opinions. Hence every political and religious test were extremely absurd; and the only test, in his opinion, to be adopted, ought to be a man's actions.

He had the most perfect conviction, that test laws had nothing to do with civil affairs. A view of civil society throughout the world must convince every reasonable person, that speculative opinions in religion had little or no influence upon the moral conduct; without which all religion were vain. Such was the great absurdity of the present test laws, that a man who favoured arbitrary power in his sentiments; who should consider the abolition of trial by jury as no violation of liberty; nor the invasion of the freedom and law of parliament any infraction of the constitution;—such a man, in defiance of the present test laws, might easily pave his way to the very first situations in the state. There was no political test to bind him; the custom of the country had deservedly exploded such absurd restraints. No alarm was excited by political speculations: the law considered no man's opinions either hostile or injurious to the state, until such opinions were reduced into action. Then, and then only, was the law armed with competent authority to punish the offender.

Should it be argued, that certain religious opinions might indirectly affect the constitution of the established church, were all sects admitted alike to hold civil employments, without conforming to the test laws, he should contend, that the constitution was equally in danger from civil opinions. Every member of parliament was required to declare his dissent to the doctrine of transubstantiation; but, was the speculative opinion of any member of the House any consideration to his constituents? Did they think it of any consequence whether or not he believed in the real presence? whether he was a trinitarian, a unitarian, or an anabaptist? Certainly not. For whatever a man's opinions might be, he would repeat his former affirmation, that no harm could possibly arise from them to the state, unless they should be brought into action; and then they certainly would become objects of punishment. To exclude any description of men, therefore, from a participation of the common rights which their fellow-citizens enjoyed was highly unjust and oppressive; unless it were contended that religious opinions ought to be taken as the criterion of political principles. But, to judge of morals from opinion, was always a fallacious mode of reasoning. The House, he trusted, would never abandon general and fundamental principles on the ground of partiality. They should judge of men not from the imputations of their adversaries, but from their own conduct.

The object of the test laws, at first, had been to exclude anti-monarchical men from civil offices; but he would ever reprobate such a procedure; it was acting under false pretences; its tendency led to hypocrisy, and served as a restraint upon the good and conscientious only. Instead of a formal and direct oath of allegiance, there was an indirect, political test resorted to, by means of a religious test; although the obligation of all direct political tests had been justly exploded by the practice of the country. Why not have proposed a monarchical test at once? It would have answered the end far more effectually than the present test; for the test now given, went only to guess at a man's opinion; it might admit those whose political sentiments might be inimical to the constitution, while it operated directly against others who were amongst its staunchest friends. Such was the absurdity, injustice, and oppression of the present test laws, that he sincerely hoped every friend of toleration, every advocate of Christian charity, would join with him that day in reprobating measures which were the disgrace of a free government.

He should decline all minute detail of the loyalty and good conduct of the dissenters, from the revolution to the present period, as he wished all merit and demerit to be put entirely out of the question. Supposing, indeed, demerit had existed, it would by no means follow, that the test laws ought to be continued in force, since they operated to the prejudice of the civil rights of a body of men. A report had been but too successfully propagated, he verily believed, with an intention to separate individuals from the cause they had espoused. It was a mean

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and unfair attempt; it led to the worst species of persecution; and he sincerely hoped, no real friend to toleration would ever countenance it: for it went so far as to disapprove of a whole body, on account of the conduct of individuals, who formed a part only of that body. The opinions of another, in matters of religion, ought always to be supposed to be founded on good intentions. As unjustly would it be to deprive a single individual, whose conduct had always been meritorious, of any of his civil rights, on account of any exceptionable conduct in the general body to which he belonged. All merit or demerit, therefore, in the body of dissenters was quite out of the question; and the House had only to decide on general principles.

Indisposed, however, as he was to allow merit or demerit any weight in the discussion of the present question, yet he could not forbear observing, that the conduct of the dissenters had not only been unexceptionable, but also highly meritorious. They had deserved well of their country. When plots had been concerted, combinations formed, and insurrections raised against the state; when the whole country was in a state of alarm, distraction, and trouble; when the constitution, both ecclesiastical and civil, was in immediate danger of subversion; when the monarch trembled for the safety of his throne, crown, and dignity, the dissenters, instead of being concerned in the dangerous machinations forming against the government, proved themselves, in the hour of peril and emergency, the firmest support of the state. During the rebellions of 1715 and 1745 they cheerfully had exposed their persons, lives, and property, in defence of their king and country, and by their noble exertions our enemies were defeated, our constitution preserved, and the Brunswick family continued in possession of the throne. They were then, as they are now, incapacitated from holding commissions, civil or military, in the service of their country, Did they plead their incapacity, and the penalties to which they were subject? No: they freely drew their swords: they nobly transgressed the laws which proscribed them; and successfully fought the battles of our constitution. For this gallant behaviour all the retribution they ever obtained was an act of indemnity—a pardon for doing their duty as good citizens, in rescuing their country in the hour of danger and distress! Such were the absurdities of the laws framed on the monstrous principles of persecution, which extend equally to the commissioned officers of the army and navy, of the established church of Scotland, who are obliged, under the penalty of fine and deprivation of their civil rights as citizens, as much as the dissenters, to conform to the test laws. Though the generosity of the British parliament had been conspicuous in pardoning the dissenters for their illegal display of bravery and loyalty, in the season of emergency and apprehension, yet the officers belonging to the church of Scotland had not experienced the same indulgence; no act of indemnity had been passed in their favour. The test laws, indeed, were not put in force against them; yet they were liable to penalties and incapacities, in consequence of their acceptance of their respective civil offices. The House ought to relieve those men, to whom they were so much indebted, from the degrading necessity of receiving pardon for their meritorious services as good subjects and citizens. The Irish had set us a noble example of liberality and generosity, by their vote declaring every man who should prosecute a dissenter for his services an enemy to his country and a jacobite.

By the repeal of the test laws, what could there be to dread? Would we fear the pope or pretender? Would the apprehension of a civil or foreign war be the necessary consequence? King William, in one of his speeches from the throne, expressed a wish to employ dissenters of every denomination in the service of the country. Every prince of the line of Brunswick had cordially concurred in the same generous desire with that monarch. Now was the properest moment to exercise such liberality as a complete toleration required. The conduct of the dissenters had been uniformly peaceable; the state had nothing to apprehend either from their disloyalty or ambition. He wished he could say as much of all other sects. The high church party, which had happily been dormant for a great number of years, was now reviving; it had not been dead, as he had hoped, but had only for a time, it seems, lain asleep. Their constant cry had ever been, "The church is in danger!" He was sorry to observe some dignitaries of the church, men of distinguished talents, whom he held in great respect, join in the absurd alarm,

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and express their affected and chimerical apprehension of danger upon the present occasion. Were there not many avowed dissenters both in that and the other House of Parliament? Yet no danger was ever entertained from that circumstance to the constitution. "But," say the party, "if you make a dissenter an exciseman, there will be danger." The high church party were, in the general, Jacobites; the avowed advocates of the doctrines of passive obedience and non-resistance. This reminded him of what dean Swift had said, in his usual spirit of sarcasm, "That though every Whig might not be an infidel, yet he was sure every infidel was a Whig." So with much more truth it might be said, "Though every high churchman might not be a Jacobite, yet every Jacobite most certainly was a high churchman." While this party were hostile to the reigning family, and active in exciting tumults, insurrections, and rebellions, the dissenters had distinguished themselves as good, peaceable, faithful, and loyal subjects. Yet the party were allowed, in this enlightened age, again to sound their false alarm, to repeat their senseless cry of the church being in danger.

The sentiments of Hoadley, and other dignitaries of his time, he had thought sufficient to make the clergy forget their dull and idle cant, by convincing them of the absurdity of all religious tests. Danger was apprehended to the church from the supine indolence of the clergy, and the superior activity and zeal of the dissenters in the discharge of the duties of their sacred functions. To fetter the dissenters with penalties and incapacities, on account of the remissness of the established clergy, was a measure replete with cruelty, absurdity, and injustice; it went upon the principles of making one man suffer for the neglect of another. He ridiculed every idea of danger to the church from a repeal of the test laws. The dissenters were less numerous as a body; and had little or no power, when compared with the authority and affluence of the church. He was sorry to observe bishops, deans, prebends, and other dignitaries of the church, who were in possession of great landed estates and splendid establishments, so ready to stand forward the avowed advocates of oppression and persecution, under the false pretence of danger. Whence could the danger arise? He defied any one to prove it. At the Union, two churches had been established in different parts of Great Britain. He would ever commend the enlightened policy of that time, which allowed both the kirk in Scotland and the hierarchy in England to be religions equally true. The episcopalians in Scotland had an equal right with the members of the kirk to the acceptance and enjoyment of civil offices. There existed no religious test in Scotland; there was therefore no act of indemnity necessary to justify the episcopalians for their patriotic services during the rebellions. From the conduct of the kirk, it could not be argued, that those whose religious principles were at variance with the creed of the English hierarchy were enemies to toleration.

The dissenters were said to be always strenuous advocates for toleration when out of power, but capable of great intolerance when in possession of authority. Was this the fact? Quite otherwise. In America, what was their conduct? They were in full possession of power; but were they at all intolerant? No. So far from it, that universal toleration prevailed throughout every province, without any disadvantage to the government of the states. Notwithstanding the greatest diversity of religious opinions, the most cordial unanimity prevailed in all their civil operations. In Ireland, too, the test had been repealed for years, and the church had been in no danger, though surrounded by dissenters in an infinitely greater proportion than in this country. If, therefore, the church of Ireland, under such disproportion of numbers, had so long existed, without danger from the repeal of the test laws; and if the kirk of Scotland, with little power and influence, had done the same, was it not absurd in the extreme to say, that the established church of England, with all its power, wealth, and numbers, could not do the same thing, without endangering its existence? Such fears, he would repeat, were idle and chimerical, asserted only, in his opinion, for the purposes of oppression.

With regard to the church itself, he highly approved of its discipline and abstract duties. It had wisely avoided all that was superstitious, and retained what appeared to him to be essential. He therefore admired and revered it, and declared himself firmly attached to it; but of the individuals who composed it he

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must say of them, as of all other public bodies, that while he highly respected some, there might be others who could have no claim to his regard. They, no doubt, were a mixture of good and bad; he must, however, strongly object to the church, whenever it presumed to act as a party; its interference in politics had been always mischievous, and often dangerous to the constitution. The church, as a party, was a formidable body; it had formerly, as now, used the powerful engine of their real or pretended fear, which, in the hands of tyrants, had ever proved the signal of oppression. The church had long taken the lead in the cause of jacobitism, and in the reign of queen Anne had been active in the instigation of tumults and confusion, in support of the doctrines of arbitrary power. He ever should be a decided friend to an established religion, but it should be an establishment founded on the opinions of the majority of the people. The truth of religion was not a subject for the discussion of parliament; their duty only was to sanction that which was most universally approved, and to allow it the emoluments of the state. A conviction of the reasonableness of such a procedure, dictated so much liberality in the religious establishments at the union, as well as the more recent establishment of the Roman catholic religion in Canada.

Innovations were said to be dangerous at all times, but particularly so now by the situation of affairs in France. But the hopes of the dissenters were not founded upon the most distant reference to the transactions which had taken place in that kingdom. Their application to the House on the present subject, had been made three years ago, when the most sagacious among them could not form any thing like a conjecture of what had since happened in that country. Yet he saw no reason why the example of France ought not to have its influence; the church there was now suffering for its former intolerance. However he might rejoice in the emancipation of near thirty millions of his fellow creatures, and in the spirit which gave rise to the revolution; yet he was free to own there were some acts of the new government which he could not applaud. The summary and indiscriminate forfeiture of the property of the church came under this description. But the violence of this proceeding might, in some measure, be attributed to former ecclesiastical oppressions; and, in particular, to the impolitic revocation of the edict of Nantes. The constitution, both civil and ecclesiastical, previous to this period, had remained unmolested and unimpaired; there existed no test; Protestants and Catholics were indiscriminately admitted into civil and military offices: but by that rash measure, liberality and toleration were thrown away; the arts and manufactures were driven into other countries, to flourish in a more genial soil and under a milder form of government. This should serve as a caution to the church of England. Persecution might prevail for a time, but it generally terminated in the punishment of its abettors.

He observed, that the church had owed its existence to a rational innovation, and the constitution had derived much of its excellence and beauty from the same source; the reformation had established the one, and the revolution the other. The nature of monarchy was such, as to require an occasional renovation of the people's rights, to prevent encroachments. It was the opinion of Mr. Hume, to whose talents as a philosopher, he paid just deference, that monarchy would soon become absolute, if not subject to frequent innovations. But what was the innovation which was now so much dreaded? Was it an attack on magna charta, or the bill of rights? No. It was only the simple repeal of an act of Charles 2d which the parliament passed out of compliment to the king, in the overflowing effusion of their loyalty, at the conclusion of the civil war. The corporation act went to exclude dissenters, whose political sentiments were considered as anti-monarchical; and the test act was intended to operate against the Roman catholics. He should ever reprobate such acts as the pillars of the constitution. What! was any specific mode of administering the Lord's supper, to be considered as the corner-stone of the constitution? A constitution with such a rotten foundation, was, in his opinion, not worth preserving. The leading feature of true religion, he had always understood to be charity. When he viewed the church, and saw churchmen discovering a spirit directly opposite to the religion they professed, he must consider them as men who were ambitious of a monopoly of power, under the mask of an affected apprehension of danger. The christian religion breathed nothing but charity and forbearance; it was neither taught ori-

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ginally to kings and senators, nor had it any necessary connexion with government. It had existed for centuries, without any assistance from the secular arm. Though a learned prelate, bishop Warburton, had proposed a decent and honourable alliance between the church and state; yet it was not an alliance founded on the purity of the christian doctrines, but merely on promises of mutual support. According to this new-fangled doctrine, the church was not to depend upon its own merits; nor was religion to be established by the truth of its own evidence; but it was to be supported by the assistance of civil authority. Was this the manner in which christianity was first propagated? In its infancy, when it had to combat the prejudices of mankind, and to make its way through an infinite number of other obstacles, was its progress indebted for any support from the indulgence of the Roman emperors senate? For a christian prelate, then, to appeal from the truth of the scriptures to the authority of secular power, in support of the christian religion, was an idea he should ever reprobate as contemptible and shameful. Religion, in his opinion, had no reference whatever to the political constitution of a state: from such an alliance, it would contaminate and be contaminated; the one would be corrupted, and the other enslaved.

The clergy, he was sorry to observe, had uniformly acted with great artifice and duplicity, down from the time of the reformation; when they made their own chimerical fears, which existed no where but in their own heated and disordered imaginations, the ground of unprovoked and unmerited persecution. Report said, but he sincerely hoped without foundation, that a certain prelate of the church (St. David's) had recently written a circular letter * to the clergy of his diocese, requiring them to withhold their votes and interests at the next general election from a particular member of that House, for his having voted for the present motion, when under discussion during the last session. If innovation was a subject of so much dread, what innovation could be more alarming to the constitution than this precedent of an English bishop, interfering not only in an election for a member of parliament, in direct violation of the privileges of that House, but also presuming to marshal his ecclesiastical tribe, in civil array, and denouncing his anathemas against every one who should be of opinion that the civil power could exist independently of the authority of the church? Such antichristain conduct was ill calculated to remove the spirit of party and of faction, with which the dissenters must be actuated, under the pressure of grievance, oppression, and persecution. Many of the dissenters, he was persuaded, were friendly to the church establishment; but by such intolerance, they might be driven to entertain the most inveterate enmity. If their influence and opposition were now dreaded, how much more so ought they to be, when roused into resentment, irritated into hatred, and persecuted into hostility? It had often proved a matter of lamentation to high churchmen, and it had been complained of as a grievance, that dissenters had, on some occasions, conformed to the test laws. It was rather a delicate point for any clergyman to scruple complying with an application for the administration of the sacrament; though in some instances, a refusal had been made, on the ground of immorality. But he must condemn such a political establishment, which required a man to go to our church, while he belonged to a sect which, perhaps, held tenets diametrically opposite; it was a direct method to promote vice, immorality, and profaneness. The abuse of so much power, too, in the hands of the clergy, might be attended with infinite mischief. The repeal of the test laws, it was said, would inevitably prove an in-

* Copy of a Letter from Dr. Horsley, Bishop of St. David's, to the Clergy of his Diocese:

"Sir William Mansell has declared himself a candidate to represent the borough of Carmarthen in the next parliament. I cannot refrain from declaring, that he has my heartiest good wishes. Mr. Phillips, the present member, has received the thanks of the dissenters for the part he took in the late attempt to overthrow our ecclesiastical constitution, by the repeal of the Corporation and Test Acts. By this, it is easy to guess what part he is likely to take in any future attempt for that purpose. I hope I shall not have the mortification to find a single clergyman in my diocese, who will be so false to his own character, and his duty to the established church, as to give his vote to any man who has discovered such principles. I am, reverend sir, your affectionate brother, and faithful servant,

"Aberguilly, SAMUEL ST. DAVID'S."
August, 24, 1789."

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fringment of the union. But this was a palpable and egregious error. So far were the test laws from being among the essential articles of the union, that when they were formally proposed to become perpetual, they were rejected.

Some stress had been laid on the writings and opinions of certain individuals among the dissenters, who had publicly avowed their opposition to the church establishment. Dr Priestley had been particularly pointed out as an objectionable character in this respect. But what danger could possibly arise from the adverse opinions of this truly eminent and learned gentleman, to the hierarchy? Was it any proof of a design to subvert the ecclesiastical constitution? No. Any person might disapprove of our civil constitution; might object to the popular part of our government; might avow his sentiments ever so openly; and yet be not liable to any civil incapacity. A noble duke (Richmond), high in office, had attempted a reform in the constitution of the legislature; the chancellor of the exchequer had done the same; but the patriotic exertions of both had failed of success; yet from their opinions, no danger had been apprehended to the constitution. After such an instance, then, of what little influence opinions have on practice, we might as safely allow Dr. Priestley to be at the head of the church, as the present minister at the head of the treasury; as the opinions of the one were not more hostile to the hierarchy, than those of the other had been to the present constitution of the legislature. Another reverend gentleman (Dr. Price), in his sermon on the anniversary of the revolution, had delivered many noble sentiments, worthy an enlightened philosopher who was unconfined by local attachments, and gloried in the freedom of all the human race. Though he approved of his general principles, yet he considered his arguments would have better become his speech than a sermon. To make of the pulpit, the altar, or sacramental table, political engines, he must ever condemn, whether in a dissenter or a churchman. The clergy in their sermons, ought no more to handle political topics, than the House to discuss subjects of morality and religion. Arguing as he had done against the prostitution of the sacramental test, religion and politics ought ever to be kept separate.

Whatever might be the fate of the present question, of this he was fully confident, that if the test laws were once repealed, the jealousy of the church would be at an end; if the barrier of partition was removed, the very name of dissenter would be no more. Should the majority of the House, however, determine in favour of the continuance of the test laws, it would only serve to keep alive a spirit of animosity between the parties; it might lead to stronger exertions in defence of civil rights; and other applications to the wisdom and justice of the legislature must be the necessary consequence. Some distinguished writers upon the subject had asserted that as the test laws had received the sanction of parliament, it was the duty of the dissenters quietly and implicitly to submit. But was not this doctrine repugnant to the privilege which was the boast of every British subject, of petitioning the legislature, when oppressed or aggrieved by any law? There was an end to our liberty at once, if we durst neither complain of grievance, nor petition for redress. The dissenters, he hoped, would strenuously persevere in their applications, until they found the object of their wishes gratified in a complete toleration; In pleading their cause, he had only supported the principles of general toleration, and the universal rights of mankind.

In all the great political questions which he had had the honour to introduce for the discussion of parliament, he had always had the good fortune to agree in opinion with, and to experience the support of, all those friends to whom he was attached from principles. Though he should ever glory in the name of a whig, as an honourable distinction which characterized the advocates of civil and religious liberty; though it was the pride of his life to act with the cordial approbation of the party to whom he belonged; yet, a right hon. friend (Mr. Burke,) whose opinions always had the greatest weight with him, did not think as he did on the present question. Much, however, as he respected his opinions, and highly as he thought of his understanding, yet, in every contest where liberty and the civil rights of men were involved, he should ever enlist under the same standard, however formidable his opponents in the ranks. In the part he had that day taken, the tongue of slander might possibly represent him as another Oliver Cromwell

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attacking the church; he had been compared to that usurper on a former occasion as attacking the Crown, even by the very men whose cause he was now pleading. Their cause, however, he had undertaken, from a conviction that it was a just cause; and he should be ever ready to become the advocate of those churchmen, who might now perhaps load him with obloquy, whenever he saw them in real danger. He would now cheerfully submit to the disadvantage of momentary unpopularity, confident that the time was not very distant, when the world would do ample justice to his motives. He then concluded, with moving. "That the House will immediately resolve itself into a committee of the whole House to consider of so much of the acts, of the 15th and 25th of Charles 2nd as requires persons, before their admission into any office civil or military or any place of trust under the Crown, to receive the sacrament of the Lord's supper according to the rites of the church of England."

Sir *H. Hoghton* said, that it was not necessary to pay his humble tribute of deserved applause to the very able manner in which his hon. friend (Mr. Beaufoy), had opened the business on two former occasions, when a motion similar to the present was discussed in this House, as justice had been fully done him by the right hon. mover of the present motion. The justice of the application of the protestant dissenters had been so forcibly shown by the right hon. gentleman, that he would not make any apology for his appearing a third time an advocate for the repeal of the acts alluded to. Though, with the rest of the dissenters, he was gratefully impressed with the liberality of the two Houses in relieving the protestant ministers and schoolmasters from the pressure of a very severe act, he did not consider the relief as a boon obtained by the generosity of the British parliament, but a restoration of a right unjustly withheld; and he joined in the present application, upon the ground of a claim of right. As he thought it unjust that the protestant dissenters should be deprived of the eligibility to civil offices, merely on account of their dissent from the established church, after their cause had been so ably illustrated by the right hon. mover, he was far from being ashamed to profess himself a protestant dissenter; and with pride he looked to the history of the times preceding the passing of these acts. He had carefully read all the references to the journals mentioned in the pamphlet, intituled, "The right of the Protestant Dissenters to a complete Toleration," and found them very correct. They all testified the respect of the friends of civil and religious liberty to the predecessors of the present dissenters, who bravely adhered to the patriots of those times, who resisted the violent attempts of the Crown and the mitre; and when the church was in danger, and their friendship asked, they always stood by them, and subjected themselves to the severity of those acts, rather than comply with the measures of the Crown, when a toleration was offered to them. He lamented the animosities which prevailed in many places; he said, he was always sorry when any disrespectful language was used, with regard to the established church: that the religion of a state should constantly be treated with civility; and that it was very disgraceful to the character and office of a prelate to engage in political disputes; but he was not at liberty to charge a right reverend prelate with being the author of a letter to influence an election, as he did not know the fact for certain. He said, he had many clergymen for his most intimate friends, and observed, that the two acts now under consideration, were, one in the House of Commons and the other in the House of Lords, attempted to be rendered perpetual; but the attempt failed.—It was, he said, proposed in Scotland to have a test act there as well as in England, by some persons, but it was not insisted upon by the patriots in Scotland, for fear of impeding the union. He believed that the argument urged on a former occasion was too illiberal and futile to be again renewed, that the more conscientious a dissenter was, the more desirous he must be to have his mode of worship established. He professed his good wishes to the establishment, and said, that a prudent man would rather submit to a grievance than run the hazard of great confusion by attempting to overturn the established church, which he should strenuously oppose.

Mr. *Martin* said, that from the moment he had the honour of entering that House to the present hour, it had been with him a fixed principle, that a majority of electors of every place sending representatives to parliament had a constitutional

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right to instruct their representatives whenever they thought it expedient to exercise that right. His constituents judged it necessary to instruct their representatives to oppose the repeal of the test and corporation acts; and therefore he felt himself bound to vote against the motion; at the same time it appeared to him a duty he owed to himself, to declare, that his private opinion upon this subject continued unchanged, and that he could not but flatter himself, that when the unhappy heats which had been kindled by jarring opinions should have subsided, a favourable opportunity would be embraced for granting spontaneously to the dissenters that which some persons seemed to think they claimed at this time with too much earnestness and zeal.

Mr. *Pitt*, in rising, declared, that he was anxious to deliver his sentiments at that early period of the debate, in reply to the right hon. gentlemen, on the present important question under discussion. He had, he said, stated his objections, on former occasions, to the motion; he should still continue to pursue the same line of conduct, with this difference only, that he was but the more strengthened, and confirmed in his former opinions upon the subject, and should therefore now restate them with greater force and confidence. He considered both himself and the House under great obligation, however, to the right hon. gentleman, for his clear and candid statement of the precise object of the dissenters, in their present application; he had completely unravelled the mystery in which their views had been enveloped; and, in a plain, open, and manly manner, had exhibited the full extent to which his motion was intended to be carried. Had it ever been possible for him to be at a loss on the subject, his doubts must now forsake him. The important question at issue was simply and plainly this: Whether the House ought or ought not to relinquish at once those acts which had been adopted by the wisdom of our ancestors to serve as a bulwark to the church, whose constitution was so intimately connected with that of the state, that the safety of the one was always liable to be affected by any danger which might threaten the other? He, for one, was clearly convinced that we ought not to relinquish those great and fundamental principles upon which the prosperity of the state so much depended.

The right hon. gentleman's sentiments on the general principles of dissention and toleration coincided with his own: yet, he must take leave to differ from him in his definition of toleration which he had carried to an extent which, in his opinion, it would not bear. Toleration could, by no means, be considered as an equality; for it only consisted in a free exercise of religious tenets, and in the enjoyment of the protection of the laws. The dissenters had a right to enjoy their liberty and property; to entertain their own speculative opinions, and to educate their off-spring in such religious principles as they approve. But the indispensable necessity of a certain permanent church establishment for the good of the state, required that toleration should not be extended to an equality; for that would inevitably endanger such an establishment. Upon the supposition that every class of dissenters agreeably to the extent of the right hon. gentleman's principles, were admitted to a full and complete equality of participation, those would be admitted, who might conscientiously think it their duty to subvert the establishment; for not only Roman catholics, but also papists who acknowledge the supremacy of a foreign ecclesiastical prince, were not to be excluded until the commission of some overt act against the constitution. If this were once to be done, there would be an end for ever put to the wise policy of prevention, and a dangerous door would be opened to the absolute ruin of the constitution. He was ready to admit, that no citizen of a free state ought to be subject to any punishment for his speculative opinions; nor should even the publication of them, with moderation and decency, fall under the cognizance of the civil power: but he contended that the interest of individuals claiming pecuniary rewards, or lucrative employments, was very different from this, and that the public safety required, in his opinion, such a species of security for an establishment, as the test laws prescribed. Our very constitution had been saved by virtue of their sanction; had it not been for such bulwarks of defence, the Stuarts might have been now in possession of the throne, and the right hon. gentleman had never had the opportunity of delivering those opinions in that House which they had that day heard. Although all cognizance of opinion might not be a warrantable ground for crimination, until

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the commission of some overt acts, yet he should ever contend, that an inquiry and test of a man's opinion, as the means of judging of his religious and constitutional principles, was highly expedient.

It had been exposed as extremely absurd that a test of religious tenets should be imposed upon persons about to occupy the meanest civil offices, while there was no inquiry into the religious opinions even of the members of the legislature. The fact was otherwise. In the oath of abjuration, a religious test was imposed on the constitutional tenets of the legislative body. The oath against transubstantiation was purely religious, and the oath of allegiance was a civil and political test of loyalty and civil obedience. But to have no test of any kind was contrary to the genius and spirit of monarchy: much more, then, must the obligation of test laws be necessary to a government like ours, where the monarchy is limited. The executive power should be allowed undoubtedly the exercise of a right of discrimination into the fitness of individuals to occupy stations of trust, for which that branch of the government was always responsible. The benefit of the general community required the establishment of public offices; and, as a distinction in their distribution was highly conducive to the same important service, the idea of right to civil offices, then, was highly absurd and ridiculous: there could be no foundation for such extraordinary claim, unless it were agreed that the offices in question were created more for the advantage of those who occupied them, than as a trust for the benefit of the public; and that their salaries were to be defrayed upon the principle of a lottery, rather than out of the public treasury. While our constitution, had however, invested the executive power with the appointment of offices, the legislature had made a wise application of a limited monarchy, by restricting the supreme magistrate in the disposal of these offices. Suppose the case of a republic, the government of which was the purest democracy, the officers of state elective out of the general body, where the most perfect equality existed. Now, imagine any form of religion, or superstitious ceremony, to be entertained and professed by a small part of the people, whose tendency might be to destroy the democratic equality, and, consequently, the constitution itself: would not the majority, with a view to the preservation of this constitution, be warranted in the exclusion of such an obnoxious party from the right either of electing, or being elected, to fill offices of trust in the state? Most undoubtedly. It should then be recollected, that the test laws under discussion were enacted with a direct view to the defence and preservation of our excellent constitution, They were to be regarded as a species of jealousy of the monarch, which had never been considered as unconstitutional. They had a direct tendency to check the influence of the royal prerogative, which was a circumstance never very unpopular in a free state; and he hesitated not to say, if any distrust were to be entertained of either of the three branches of the constitution, it ought to be of the executive power. The test laws, by abridging the prerogatives of the Crown, in preventing the sovereign from employing persons in offices of trust, who could not give a certain pledge or security of their attachment to the government, guarded against all danger or abuse from this branch of the legislature. The persons excluded by the test laws from civil offices lay under no kind of stigma, in his opinion, more than those who were necessarily kept out of that House, or from voting at an election, in consequence of their disqualification by statute from their elective rights. It was a common policy which obtained in private life, for no man to admit another to the management of his affairs, whose principles he did not approve: the same policy should prevail in states. The exclusion of the dissenters, therefore, from civil offices, from a disapprobation of their political sentiments, could be no usurpation in the government.

The merits or demerits of individuals ought, most undoubtedly, to have no weight or influence in the discussion of the present question. Yet the conduct of the dissenters seemed to him liable to just reprehension; for when they were reprobating the test laws, they were loud in their complaints, and were appealing to the legislature for redress of their grievances; even at that moment, they discovered intentions of forming associations throughout the whole country, for the sole purpose of putting the members of that House to a test; of whose fitness and competency to discharge their parliamentary duty, they were to judge from their votes upon this single question. They had, indeed, explained themselves, that it

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was far from being their intention to put a test to any one; but even in their explanation a test was evidently implied. For in their resolutions, under the signature of Mr. Jefferies, it was expressly declared, that the dissenters meant to favour such members with their support, who should prove themselves friends to civil and religious liberty. Their construction and application of such terms must be obvious to every understanding. No man, in their estimation, would be regarded as a friend to civil and religious liberty who did not vote for the repeal of the test laws. Although the right hon. gentleman had well expatiated on the excellence of toleration, yet he was not certain that the description of men, whose cause he had so ably pleaded, would be eminently distinguished for their candour, moderation, and tolerance, should they succeed in their application. He owned he was not prepared to repose implicit confidence in any fair promises they should make, from the suspicious circumstance of their applying for a repeal of the test laws, when, at the same time, they were threatening the legislature itself with a test. No individual, therefore, as he had contended, could either have a right to occupy, or be eligible to occupy any official situation under a government like ours, especially if such an appointment too was likely to be attended with any political inconvenience; for when such an inconvenience ever exists, the claim of right must be utterly unfounded. The claim of the dissenters, therefore, to be admitted to civil employments, upon the ground of right, equally with the members of the establishment, must of necessity fall to the ground. He had no idea of such levelling principles as those which warranted to all citizens an equality of rights; as if the whole property, under the control of government, were equally to be distributed among the public again. The appointment to offices rested with government, which no citizen could claim as a matter of right. The dissenters ought not to consider themselves, by the operation of the test laws, as debarred from any right to fill official situations under government, nor ought their exclusion to be regarded as any stigma upon them; since the government, in concurrence with the majority, are of opinion that none ought to be admitted to civil employments, except members of the establishment. To ascertain this important circumstance, without exacting either promise or obligation from any individual of the community, the test laws are enforced.

Having now, he hoped, sufficiently argued the question on the ground of right, he should proceed to discuss its merits on the ground of policy and expedience. The reasons for the adoption of the test laws, by the wisdom of our ancestors, had not, in his opinion, ceased. Political expedience prohibited their abolition. To elucidate this matter he would inquire: first, whether an establishment was not necessary, and materially connected with the state? Secondly, whether the dissenters are not likely to exercise power, should they once have it in possession? Thirdly, would not the repeal of the test laws indulge them with that power? Fourthly, whether the dissenters labour under any practical inconveniences from the operation of the test laws? Fifthly, whether a repeal of them could take place consistently with the safety of the established church. The necessity of an establishment was generally admitted, he believed, in that House. The right hon. gentleman had declared it highly useful and advantageous: an argument from him, therefore, in support of this position, was unnecessary. A just panegyric had been pronounced from the same high authority, upon our present church establishment. It was said to be equally devoid of all unnecessary exterior ceremonies, as its interior rites were of superstition and enthusiasm. An argument to prove that the dissenters would exercise power when in possession of it, was also, in his opinion, useless; since the possession of power, it was well known, was always attended with a natural inclination to the exercise of it. Without intending to throw any stigma upon the dissenters, who were undoubtedly a respectable body, he did not hesitate, however, a moment in supposing it extremely probable that they might exercise their power to the subversion of the present establishment. Their conduct would not be reprehensible in acting from the principles they profess; for it became their duty as honest men, regarding as they do the established church as "sinful and bordering on idolatry," to act a conscientious and consistent part, by exercising every legal means in their power towards its subversion. To grant the dissenters such power, from a repeal of the test laws, as might endanger the establishment, was

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highly impolitic. Such a national establishment of religion as ours, was capable of rendering essential services to the state; it was therefore entitled to the vigilant protection and support of the state in return. A national religion was calculated to meliorate the morals of the people, especially when its form was congenial to the civil constitution of the country.—He should not comment, he said, on the letters of the bishops, nor on the sermons of dissenting ministers, as he perfectly agreed in opinion with the right hon. gentleman, that matters of state ought not to be blended with religious duty. Such discordant mixture had been always attended with great mischief. It was the duty of men of such character to confine themselves to the purposes for which their employments had been instituted; to cultivate peace and good order; to instil into the minds of the public a rational love of Christian morality; to exhibit in their practice exemplarity of conduct for piety and virtue; to have no other competition than that recommended by the gospel, namely, who shall most contribute to promote the great ends of religion and morality. From such a contention, the state must derive the most important advantages; it were a warfare truly worthy the sacred title of religion. If an ecclesiastical establishment was necessary for the good of the state, as fact and experience had proved in many instances, both before and since the revolution; and as the power to be derived to the dissenters, from a repeal of the test laws, might endanger the church and hazard the safety of our civil constitution, policy demanded the prevention of all possible danger to the state, from the prudent interference of the legislature, in rejecting every application, however respectable, that might lead to such serious inconvenience. The essence of policy consisted in the general good of the public; where the rights and interests of individuals, therefore, came in competition with those of the public, policy claimed precedence even of justice. Admitting the dissenters to endure some small practical inconvenience from the test laws, yet, if the general good and the public safety demanded such sacrifices, as he must contend they did, their appeal to the legislature for redress, in the nature of justice, ought to be rejected.

But it had been contended, that no danger whatever could possibly arise to the constitution, either in church or state, from a simple repeal of the test laws, and that the dissenters would rest satisfied, and would trouble the legislature for no farther indulgence, provided their present application proved successful. He would assure the dissenters that he would neither deny them any right that belonged to them, nor would he refuse them any regulation which did not seem attended with any dangerous consequences; but as the object of their present application did, in his opinion, warrant a sufficient ground for apprehension and alarm, it was the duty of the House, as the faithful guardians of the constitution, to watch and repel the danger in due time. The dissenters had, the House would recollect, succeeded in their application about fourteen years ago, and obtained what had been considered as a completion of their toleration. It was then declared, both in and out of that House, that the dissenters intended to proceed no farther, if they only obtained the relief they then solicited; and Dr. Kippis, a man of no inconsiderable rank and esteem amongst them, in his letter upon the subject, declared, that after obtaining the toleration in question, they would ask no more of the legislature, but would retire, grateful and content, to their books and closets, impressed with a becoming sense of the great indulgence with which they had been favoured.—He must differ from the right hon. gentleman in his opinion, that if the test laws were once repealed, the dissenters would be desirous of proceeding no farther. Many gentlemen among them, who stood foremost in the present application, did, by their declarations, contradict such an opinion; they had openly avowed their disaffection to the constitution of the church; and although they had declared they were perfectly satisfied with the indulgence granted them by the legislature, and should apply no more, yet they had violated their promise by the present application; and from their professions, there was no judging with what they would be satisfied. If the House should, in compliance with their wishes, consent to the repeal of the test laws, who could tell but their next application might be for an exemption from church dues? to which every argument advanced in support of the present question would equally apply. Now, an established religion had been admitted as necessary, useful, and advantageous to the

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civil government of a state; such an establishment ought, therefore, to be protected and supported by the government; and its expense should fall equally on all the members of the general community, in a certain proportion. A repeal, therefore, of the test laws could not, in his opinion, take place, consistently with the safety of the church, the security for the safety of which had not commenced at the revolution, as the right hon. gentleman had stated, but had been in existence long anterior to that date; and had there not existed such bulwarks of defence, previous to the revolution, that memorable event itself had never taken place. The continuation of the test laws was, then, highly expedient.

A reference had been made to the repeal of the test laws in Ireland, and no danger had ensued to the constitution. The situation of the Irish and English churches, he observed, were very materially different; the former found a security in the superior numbers of the Catholics over the dissenters, which bore a proportion of six to one, and therefore needed not the same protection as the English church from the sanction of test laws: the repeal, too, having only recently taken place, we could not judge by experience of the consequences of its operation. The repeal of the test laws in Ireland was not, therefore, an instance in point, to warrant the adoption of such a measure in this country. The reference also to the kirk of Scotland having no test was equally inapplicable; as a test there would prove a very feeble barrier, since the majority of dissenters from the kirk conformed to the mode prescribed by law for the administration of the sacrament, and since the establishment of the presbytery had been sufficiently secured by a solemn pledge in the act of union. The allusion made to the French church, antecedent to the revocation of the edict of Nantz, having no test laws for its protection, was also foreign to the present question. Had there prevailed less bigotry in those times, the church would have been secure, since the sovereign will of the monarch was the only law of the country. The right hon. gentleman's argument that no test laws existed in America, was as inapplicable as the other references and examples he had adduced in elucidation of his point. The American constitution resembled ours neither in church nor state; he most sincerely wished it had, in affording equal security for liberty and happiness to the subject. But in America there was no uniform established religion; no test laws were therefore necessary for the protection of such an establishment. Although the opinions of men were much divided at one time on the subject of the American dispute, while one party was contending that the revolting colonies ought to be coerced to obedience, and another was as strenuously insisting that they ought to be for ever abandoned, and the world in general was willing to believe that England could not exist independent of her colonies: yet the event, however, had happily proved the reverse of these different opinions; for, in the loss of the territorial government of the thirteen American colonies, Great Britain had sustained but a very inconsiderable diminution in her commerce; while she had to boast her deliverance and exemption from that load of expense which attended the support of the civil establishment of the states.

The test laws had been declared inefficacious and nugatory, as the legislature had been obliged every session to pass an act of indemnity. If the fact was so, the ground of all complaint of oppression must cease; for, from the right hon. gentleman's own argument, it was obvious that the laws were not enforced. Although the temperate forbearance of the government from the non-execution of the laws was truly laudable, when the danger was neither imminent nor alarming to the church, whose security and permanent safety was their object, yet to repeal the laws in question, because their execution was not always necessary, would be impolitic in the extreme; as the legislature, in thus suffering the remedy for such danger to depart from their hands, might not very easily be able to recover such salutary influence, as might stem the torrent of danger in the hour of pressing emergency. So far was he from agreeing with the right hon. gentleman, that no danger whatever was to be apprehended, that he could easily conceive a man, with all the abilities of the right hon. gentleman, but without the integrity of his principle, who, influenced by ambition and corrupt views, might exercise his powerful talents in rousing the disaffected to an attack upon the church. Would there not, in that case, be real danger? Most certainly. To guard

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against danger to the constitution, however distant, was the indispensable duty of every member of that House, but of none more than of a person in the situation he had the honour to hold, with whom the safety of his country ought ever to be his principal object. He must, therefore, give his decided negative to the motion.

Mr. *Beaufoy* began by observing, that before he proceeded to reply to the argument of the right hon. gentleman, he could not but remark, and in remarking, he could not but exceedingly lament the manner in which, not from a harshness of feeling towards the dissenters (for he was no stranger to the benignity of the right hon. gentleman's disposition), but from the nature of the cause which he had undertaken to defend, he had commented on the present application of his fellow subjects. Is it not sufficient, said Mr. Beaufoy, that the dissenters are excluded from all the offices and honours of the state; that they, whose attachment to the House of Brunswick has not always been equalled, and has never been exceeded, should be excluded from the service of their gracious master? Is it not sufficient that they should be denied the common privilege of bearing arms, as if, like slaves, they had no property to protect, no rights to maintain, no country to defend? Is it not sufficient that they should be involved in the same penalties with which the vengeance of the law pursues the most inveterate and atrocious offenders, but they must also be charged with cherishing designs which their conduct has disproved as constantly as their language has disclaimed, and which their principles, as far as I have ever known them, have no tendency to produce? If they were really men of the factious disposition which the right hon. gentleman has described, would they, in all times of national weakness and of public distress (the times at which the voice of faction is ever the loudest), have borne their sufferings with such constant, uniform, persevering patience, never troubling you at such seasons with solicitation or complaint? The example of Ireland had taught them, that the hour of national distress is also that of national justice; but far from availing themselves of the knowledge which that example conveyed, they have always, in these unhappy moments of embarrassment, preferred a continuance of suffering to every hope of relief. It was not till all difficulties were removed, and all anxieties were fled; it was not till the return of the general strength had given security to all rights but theirs, that they intreated your attention to the hardships they endured from the sacramental laws. After the continuance of such a conduct for more than 120 years, they did venture to hope (nor can that hope be considered as presumptuous), that they were intitled not only to the justice, which however is all they ask, but also to the partial attachment and affectionate regard of the legislature. Nor can I persuade myself, notwithstanding the censures of the right hon. gentleman—censures strongly implied, rather than directly expressed—that the House of Commons will hear with indignation, that, which, before a still greater tribunal, is always heard with indulgence—a repetition of earnest entreaties from those who are struggling with oppression.

The arguments of the right hon. gentleman naturally arrange themselves under two distinct heads, that of the conduct of the dissenters, and that of the merits of the question considered in the abstract. On the first of these points, he charges them with inconsistency of conduct, in endeavouring to impose a test upon others, at the very time that they bitterly complain of the hardship resulting from the existence of a test on themselves. Inconsistency of conduct! Have the dissenters ever denied the propriety of civil tests for civil purposes? Have they ever disputed, under proper regulations, the expedience and wisdom of oaths? Have they ever declared, that such persons as are candidates for civil offices, should not be called upon to give a pledge of faithful allegiance and firm attachment to the state? The folly and injustice of religious tests for civil offices, they have, indeed, invariably reprobated; for they have ever asserted, that no power on earth has a right to impose on any man a declaration of religious belief, as the condition on which alone he should be called to the possession of a political employment; and consistently with these declarations, they have sometimes urged to those who are candidates for their favour, that he who wishes to be appointed the guardian of the rights of others, ought at least to acknowledge the existence of those rights; but never, on any occasion, have they examined the person who solicited their votes to represent them in

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parliament, on the abstract points of his religious belief, or the principles of his speculative creed. The propriety, the expedience, the wisdom of the distinction between civil tests for civil purposes, and religious tests for the same purposes, are sufficiently obvious; but the inconsistency which that distinction is supposed to imply, I own myself at a loss to discern.

Still, however, the right hon. gentleman states, that the conduct of the dissenters towards the candidates for their favour is unconstitutional and unfair. Is it then unconstitutional and unfair, that the dissenters should say to the candidate for his favour, "You desire me to appoint you the guardian of all that is dear to an Englishman, the laws and constitution of his country, as well as his property and freedom; but before I consent to raise you to so important a station, permit me to ask, for it much concerns me to know, are you yourself a friend to the rights of the subject; do you wish well to the cause of the injured, or are you disposed to uphold the cause of oppression. You cannot be a stranger to the hardships to which I am exposed by the sacramental laws, nor can you want information on a subject which has been agitated in parliament, and canvassed in every part of the kingdom. If, then, you are not inclined to grant me that relief, which, on every principle of justice and of the faith of parliament, virtually, but strongly pledged, I am entitled to receive, on what principle or on what pretext, can you expect my support? You refuse me the common privileges of a citizen, and, in return, shall I raise you to the rank of a legislator? You wish the continuance of laws that expose me to the same punishment which is inflicted on those who have proved themselves faithless to man, and perjured to Heaven; and in return for such indignities, shall I invest you with eminence and honour?" The policy, the wisdom of such language, in persons who constitute but a small part of the community, may, perhaps, be questioned; but surely, in that language there is nothing that can be deemed unconstitutional or unfair.

In the next place, the right hon. gentleman states, that the dissenters are justly chargeable with a breach of public faith, in claiming indulgences from parliament, after they had solemnly declared, that if the relief which a few years back was asked by their ministers was given, they should have nothing farther to solicit from the legislature of their country; and in speaking on this subject, while he has expressed himself towards Dr. Kippis with that justice which is obviously due to the eminence of his character, in the sacred profession to which he belongs, as well as to his distinguished name in the literary world, he has taxed him as the person to whom this charge of inconsistency between conduct and assurances, specifically and solemnly given, particularly applies; but the right hon. gentleman has too much candour to have hazarded such a charge, if he had not confounded two claims which are perfectly unconnected: that of the ministers, who petitioned for, and obtained legislative relief; and that of the laity, who were as little concerned in that relief as the ministers now are in the specific indulgence, if such it must be called, to which the present application relates. The ministers, with perfect good faith, assured the legislature, that they, as ministers, had no additional claim to urge, or farther relief to solicit, and from this assurance they have never departed; for to them no emolument can arise, no advantage, civil or religious, can be gained from the repeal which a different description of men, the laity, now earnestly request of the sacramental laws.

The last circumstance on which the right hon. gentleman has founded his objections to the conduct of the dissenters, consists in the formation of their provincial assemblies, and of that general meeting which has lately been announced in London. I am happy that I can appeal to the best of proofs, the experience of past times, for the perfect consistency of that meeting, with every consideration of general tranquillity, and of national interest: for, in the year 1745, on precisely the same grounds as at present, those of wishing to convince the legislature how sensibly affected all denominations of the dissenters were with the penalties imposed upon them by the sacramental laws, the deputies of the London congregations requested that delegates to a national meeting might be sent from all the principal towns in the kingdom. On that occasion the same clamours as at present arose, the same suggestions were employed, the same dark insinuations were used, and the voice of calumny was still loud, when the sudden news of a rebellion in the North

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burst on the public ear. Consternation was in every eye, the sound of despair was heard in every street. At the very time that many of their calumniators were negociating with the public enemy, and others were hastening to his camp, the dissenters rose as one man in defence of the life and throne of their sovereign. This was their reply to the accusations which assailed their fame. By the memory of those brave men, who, on that occasion, equally despised the sword of the enemy and the vengeance of the sacramental laws; by the blood of those martyrs to their attachment to the House of Brunswick, who perished in the field of Culloden, let me conjure you to banish from your thoughts those unworthy suspicions of your countrymen, with which their defamers have endeavoured to taint your minds.

From this review of the several charges on the conduct of the dissenters, Mr. Beaufoy next proceeded to the arguments by which Mr. Pitt had combated the rights which they claimed, to be deemed capable in law of enjoying those offices of honour and trust, to which the partiality of their sovereign might call them. He observed, that there were two grounds on which the right of the dissenters to that capacity had been combated. The first was, that a majority of the inhabitants of the kingdom have a right to exclude from all the employments of the state, such persons as differ from themselves in the abstract points of religious belief; the other was derived from a consideration of the objects and purposes of government. On the first of these grounds, Mr. Beaufoy said, that the argument had not been, and, in his opinion, could not be, strongly urged; for, exclusive of every abstract consideration, it was perfectly clear, that such reasoning, however applicable in England to the actual situation of affairs, or convenient in itself for the purposes of the present discussion, was too inconsistent with the conduct of the British government in another part of the empire, to be deemed salutary in practice, or wise in theory. He wished not, however, to dwell on this division of the subject, or to show that such reasoning must disprove the justice of that government which has long been established in Ireland, and which certainly is not founded on the idea that a majority of the inhabitants have a right to exclude their fellow citizens from all offices of emolument, honour, and trust. In arguing on the nature and ends of government, Mr. Beaufoy observed, that the right of the dissenters to be deemed capable in law of holding such offices, civil or military, as they might be called upon to fill by the voice of their sovereign, rested on the best and broadest of all foundations, that on which government itself is built. To prove this point, he said, he need not have recourse to solemn deductions and formal inferences, or remind the House of what they so perfectly knew, that besides the right which nature has given to every man to his property, his freedom, and his life, she has also conferred on him a fourth right, that of defending the former three, and that government is nothing more than a systematic mode of carrying this fourth right into convenient and complete effect. As little need he observe, that though upon this principle every man may seem to have naturally an equal claim with every other man to be deemed capable in law of taking his part in that system of defence, yet, as it was perfectly obvious that every man could not be called to an exertion of such a right, there must be somewhere a power of selection; which power the people of England, with evident wisdom, have vested in the same hands to which they have intrusted the supreme executive power of the state. The only point, he observed, for consideration, was, what are the conditions that constitute this rule of selection? That on the one hand the dissenters contended that, as the rule of admission was directed to the attainment of civil objects, it ought to be founded on civil principles alone, whereas the right hon. gentleman had contended it ought to be founded on religious principles also. The dissenters conceived that no conditions should be necessary to constitute legal capacity for office, but the choice of the sovereign in the first place, and in the second, an ability and willingness to give, with effect, an assurance of civil attachment to the state; a bond of firm and faithful allegiance. On these principles it was evident, that two descriptions of men would be excluded; first, all those who have been convicted of perjury, and have consequently shown, that on their minds the most binding of all bonds is incapable of producing its natural effect; secondly, all such persons, if any such there be, as under the denomination of papists, a denomination which the right

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hon. gentleman, with a clearness of distinction that I trust will always be remembered, has justly distinguished from catholics, are understood to believe that oaths to an heretical government, are not binding on the swearer. But the right hon. gentleman, not satisfied with these conditions, contends, that though the subject be able to give with effect, and may have actually given the strongest possible pledge of attachment to the state, yet that the legislature, on account of the abstract tenets of his religious belief, has a right to exclude him from the honours and emoluments of all public employments, civil and military, and has also a right to consign him to degradation and dishonour, and to impose on him, though guiltless of offence, a punishment that can never be warranted, except by atrocious crimes. Consistently with this opinion, the right hon. gentleman has also alleged, or rather has taken it for granted in his reasoning, that the government of a country has a right to impose on the dissenters whatever restraints and whatever penalties it shall deem expedient for the security of the established church; but terrible indeed, if this principle should be admitted, must be the situation of the dissenters. For what is it but to say, that not by their own actions, but by other men's fears shall the measure of their penalties be determined? Try them by their actions, and it will be found that they are entitled to the strongest affection of their country, and to the attachment and gratitude of the church; for more than once, in times of difficulty and distress, they have saved her from impending destruction, and at this very hour it is generally understood, that the church of Ireland is upheld by their zealous attention to her interests; but if the extent of their sufferings is in future to be determined, not by their own conduct, but by the apprehensions of others, a state of greater humiliation and of deeper distress can scarcely be conceived; for they cannot conceal from themselves, that though the fears of the present hour may be satisfied with the penalties of the present law, yet the fears of the succeeding hour may suggest that they who are unfit to be trusted with the subordinate offices of the state ought not to be invested with the most important of all offices, that of legislative authority. Thus the dissenters may hereafter be excluded from the right of sitting in parliament. As little can they conceal from themselves, that a still stronger apprehension may intimate, that he who is unfit to be intrusted with an exciseman's delegated power, must be ill qualified to choose the guardians of whatever is most sacred in the laws and constitution of the country. Thus the dissenters may be excluded from the right of voting at elections. Fear is generally progressive, and on some future occasion may possibly suggest, that they who cannot with prudence be allowed the management of their commercial concerns, lest it should give them too much influence in the state, ought not to be indulged with the greater influence which the possession of landed property bestows. Thus the dissenters may be excluded from the right of purchasing or succeeding to estates in land. Others again of greater timidity perhaps, or who value themselves more on consistency of character, may suggest that if the dissenters, are such enemies to the church, as to render their exclusion from the army a wise and salutary precaution, if they really are such steadfast, inveterate foes to the established religion, that to intrust them with arms, is to hazard her safety, they ought not, in common prudence, to be permitted for a moment to continue in the realm. Thus the banishment of the dissenters may be deemed a necessary measure.

Mr. Beaufoy said he was unwilling to pursue this train of reasoning any farther, lest he should seem to describe, as the possible language of his countrymen, that which he only meant to state as the natural language of the principle which the right hon. gentleman, without adverting to its consequences, had endeavoured to inculcate; yet if the conclusions which obviously result from the principle, be those alone which in argument he was bound to discuss, he thought himself obliged to state, that under the influence of that principle, there might hereafter be persons who may be induced to urge, that though the disburthening the church of her foes be a wise and salutary measure, yet that the prudence of permitting the escape of an enemy, irritated but not weakened, exasperated, but not subdued, may well be disputed; that the same consideration that would justify the banishment of the dissenters, would equally justify a more effectual expedient; and that if the memory of Charles 9th, and of the Festival of St. Bartholomew must be reprobated, it should rather be for the

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laxness of the execution, than for the folly of the design. He once more declared his perfect persuasion, that such sentiments could never again be avowed or entertained in Britain. Yet he could but reflect that 200 years had scarcely elapsed since, even in this kingdom, the sun was darkened by the smoke of those fires which consumed in torment the individuals who at that time dissented from the established church. Are then the dissenters mistaken when they conceive, that the principle which is thus inculcated opens an immeasurable gulf in which their rights of property, of freedom, and of life, may all be lost? If they are mistaken, let proofs of that mistake be given; let it be shown, that the principle in question will justify the exclusion of the dissenters from all the subordinate offices of the state in which their enmity to the church, if it really existed, must be abortive, but will not justify their exclusion from legislative power, by the possession of which the consequences of a hostile disposition might indeed be dangerous: let it be shown that the principle will justify the taking from them the right of defending their liberty and their existence, but will not justify the depriving them of their lives or freedom. In other words, that it will warrant all such measures as must be inefficacious, but will not warrant such as might, perhaps, be effectual. I should be glad to see this distinction established, as the apprehensions of the dissenters would be greatly diminished if they were satisfied that there is a boundary which persecution on that principle can never pass. Vain, however, is the wish; fruitless the hope; for what limits can be assigned to the operation of a principle, the very existence of which is an outrage to justice, and a proof of the weakness of her laws? Shall we appeal to the objects of government for the extent to which penalties on religious belief may be carried? Alas, sir, the very existence of these objects is endangered from the moment that such penalties are permitted at all. Government was established for the protection of the rights of property, of freedom, and of life; but if the legislature has a right to judge of the tendencies of thoughts, abstractedly from conduct, and to establish a standard of human guilt, independently of human actions, that protection is at once annihilated: for if the legislature have a right to judge of the mere operations of the mind, they have the means of consigning to condemnation whatever religious opinions they please, and therefore of marking out for destruction whatever religious sects they think proper. It is a privilege that destroys the firmest bond and strongest principle of union, that is known to civil society—the assurance that the guiltless shall not be condemned, that the innocent shall not be punished. It takes away from the subject that blessing of security, without which all other blessings are but motives to disquietude, and incitements to distress.

The right hon. gentleman's next declaration was, that the dissenters already enjoy a sufficient and complete toleration. Sir, it is one of the severest afflictions of which the dissenters complain, that while, in order to enjoy that right of private belief, which is essential to thought, and therefore inseparable from existence they are reduced to a situation which the House of Peers (so much did they differ from the right hon. gentleman) have solemnly pronounced to be "one of the most unhappy to which Englishmen can be reduced," they are considered by their fellow-subjects as enjoying a sufficient and ample toleration. "You ask from the legislature the free exercise of private judgment in questions of religion. You claim the right of acceding to those laws, by which the Almighty governs conviction, —a right which, if it were in your inclination, it is not in your power to resign; but that very right you shall enjoy on no other condition than that of being excluded from all the offices and honours of the state, of being denied the common privilege of bearing arms, and of being involved in penalties which the House of Peers, the most solemn tribunal now existing on earth, have declared ought never to be inflicted except for offences the most enormous. Yet this toleration shall be considered as sufficient and compleat. Have your fellow-citizens raised you to the seat of magistracy, as a man whose integrity and talents invite the confidence of the innocent, and appal the hopes of the guilty? Have they entrusted you with the management of their affairs, as a person whose probity they have often tried, and whose judgment they have repeatedly proved? The toleration which is granted shall depose you from your office as a man unworthy of all trust; for whose conduct the strongest oaths are a weak and insufficient

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security. Yet your fellow-citizens shall exult in the liberality of the indulgence which they have extended to your character and religious opinions. The very privileges which you derive from your benevolence to the poor, this complete and sufficient toleration shall wrest from your hands. Have you endowed an hospital, and obtained a charter for its establishment? all share in the management of its funds which you yourself have created, all means of conducting to its appropriated ends the money which you yourself have given, shall be taken entirely away. You shall not be governor of your own charity, nor a director of your own institution; yet the toleration which deprives you of all these rights shall be deemed sufficient and complete."

Mr. Beaufoy said, he was perfectly aware that the right hon. gentleman had endeavoured to show, that the exclusion of unqualified persons to vote at elections, might, with as much reason, be considered as a penalty, as the exclusion of the dissenters from the various capacities which their fellow-citizens enjoy. But to this he replied, that a disqualification to vote at elections, where the legal requisite is wanting, has never yet been employed as a common penalty for offences; whereas the disabilities imposed upon the dissenters are penalties, familiar to the law, and expressly enjoined by the legislature, as a punishment for crimes, the most abhorrent to the peace and well-being of social life. He said, he was also aware that the right hon. gentleman had stated, that the dissenters themselves did not consider the existence of the sacramental laws, as being, in any considerable degree, a practical grievance; an opinion that could only be founded on his not having distinguished between the interest of the dissenters, as composing a religious sect (an interest that they well knew must flourish in proportion as their prosecution was severe), and the feelings of the same dissenters, as Englishmen, dishonoured in the eyes of their countrymen, degraded in their privileges as citizens, and deprived of their rights as men. Feelings which had often led them to complain in the emphatic language of the House of Peers, "that to a more miserable situation than that in which they are placed it is scarcely possible for an Englishman to be reduced."

The right hon. gentleman had remarked, that weak, defenceless, and unhappy would be the situation of the church, if the sacramental laws should be repealed: but much more unhappy (said Mr. Beaufoy) in my opinion, will continue to be her situation, if these laws should be permitted to remain in force; for while she is made the instrument of imposing penalties on the guiltless, of excluding from the service of their sovereign a large proportion of the most faithful and affectionate of his subjects, and of reducing to the harsh alternative of apostacy from religion (for so, if the laws were executed, she must actually prove) or of exclusion from all offices and honours one of the two nations which compose Great Britain. She is, at the same time reduced to the shame of prostituting for these lamentable purposes, the most sacred ordinance of her faith, an ordinance of more than mortal institution, the solemn pledge of her eternal hope; and she is likewise exposed to the disgrace of seeing her ministers compelled to the fearful alternative of trespassing on the laws, or of trampling on their duty, of exposing themselves to prosecution, to penalties, and finally perhaps, to a prison, or of administering the awful sacrament to those on whom they are assured it must operate as a sentence of everlasting misery. The history of nations furnishes no example of indignities like these being offered by any legislature to the religion of a people. That foreign invaders should pollute the temple of a worship, in which they do not believe, may perhaps be natural; yet even this is always recorded with horror; but that the legislature of a country should deliberately, and by express enactment, prostitute the sacred rights and solemn ordinances of their own faith, that they should despoil the temple of its accustomed reverence, and convert it to an anti-chamber to the Excise-office; that they should strip the altar of its purity, and make it a qualification-desk for tax-gatherers and public extortioners, and that the interest of the church should be pleaded as a reason for the impious defilements, exhibits such a novelty of horror, such stupendous profanation, as never in any other instance has stained the annals of mankind. What upon such a conduct, must be the impartial decision of succeeding times? There are persons in this assembly, nor is their number small, whose names cannot perish with the age which gave them birth; to them, at least, it is of moment to consider what will be the

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judgment of that tribunal of posterity, whose final decision no passion can disturb, no fears can terrify, no hopes can seduce. To their unerring wisdom shall we plead that the sacramental laws are essential to the support of an established church? The experience of Ireland falsifies that plea. Or shall we say, that in common policy a religious test is essential to the maintenance of civil institutions? The experience of all Europe refutes the extravagant assertions. Or shall we insult their patience by assuming to ourselves the attributes of Deity, and pretending a right to judge of the guilt or innocence of human thoughts independently of human actions? For the credit of the present age I should be sorry that such principles should be recorded, and I know not of any other on which the sacramental laws can be defended.

Before I conclude, it gives me much satisfaction to observe, that the right hon. gentleman has neither denied nor controverted any one of the facts on which the claim of the dissenters to the solicited relief is built. They assert, that their ancestors were not the persons against whom the provisions of the test act were originally framed, and that they were not included in the reason, though unhappily they were subjected to the burthen of the law. The right hon. gentleman does not pretend, in opposition to the title and preamble of the act, as well as to all historic records, that the exclusion of the dissenters from civil and military offices was the purpose for which that act was designed. They also allege, that the test act was passed under an implied, but strong and equitable pledge, that relief from its restrictions should be given to the dissenters. A pledge which the parliament who passed that act, though their efforts were defeated by the arts of the court, repeatedly endeavoured to redeem. This fact also the right hon. gentleman does not attempt to dispute. They further maintain, that the corporation act was passed in a season of turbulence and national distress; that its provisions were not more hostile to the dissenters than to the constitution itself, and that the reasons on which the act was founded have long since ceased to operate. This fact also the right hon. gentleman has not attempted to disprove. Thus, Sir, I have endeavoured to show, that the facts on which the dissenters have built their claim, are unrefuted and unquestioned, and that the arguments which they have advanced, are opposed on such principles alone as would justify, and have often produced the worst extremes of persecution. In all that I have said, I have submitted to the judgment of the House those considerations alone which have governed my private conviction; for as a friend to justice, I wish relief to the injured; as a citizen devoted to the state, I am anxious to unite in the general defence all those who are willing to hazard their lives for the general safety; and as a member of the church of England, I am solicitous to relieve her from reproach, perfectly convinced, that she must be weakened in proportion as she is dishonoured, and that her permanent prosperity can never be derived from power founded on oppression.

Mr. *Powys* said, that as he had always considered the question, whether the test and corporation acts should continue in force or be repealed, of so serious and important a nature, that merely to give a silent vote on the occasion, would not suffice, he had withdrawn from the House, in the two last sessions, previously to the decision upon motions similar to the present, because he had not been able, at either time, to embrace an opportunity of delivering his sentiments. Conceiving, however, that it was now the particular wish of the people to know the sentiments of their representatives on the question, he was desirous of being honoured with the attention of the House, whilst he proceeded to some remarks which, he believed, would neither prove acceptable to those who anxiously supported the question, nor to such gentlemen who as strenuously resisted it. He was by no means ready to go the length of the right hon. gentleman (Mr. Pitt), in asserting that the test and corporation acts took nothing from the dissenters, and excluded them from nothing that was important; but he was as little willing to admit the claim of the dissenters upon such grounds as it had been rested that day. The two acts had been blended together; in his opinion, they would have been well worthy to have been made objects of distinct discussion, because they stood on different grounds. With regard to toleration, every gentleman in that House was, he believed, a friend to it; tender consciences ought undoubtedly to be treated with every possible regard and attention; but by religious toleration, as he had ever

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conceived, was meant the granting a right to every man to profess his religious opinions openly, to worship God in his own way, and to breed up and educate his children in his own faith. That was what toleration meant as extended to dissenters in their individual capacity, and he thought they could reasonably expect no more. If dissenters, however, chose to go out of their individual capacity of private men, and wished to hold offices of trust, in that case the House surely would agree, that the state had a right to impose what qualifications it thought proper on those who were to exercise its offices of emolument and authority. The test act was an act that certainly did contain a variety of pains, penalties, and disabilities, extending to the dissenters indeed, but professedly aimed rather at the Roman catholics. Among other disabilities was that of a Roman catholic being seen in the presence of the king, or at court; this, as well as several others of an extraordinary nature, was certainly carrying religious prejudices a great way; but, in the present case, with regard to the dissenters, the question he considered as a question of power, agitated upon a claim made by the dissenters; a pretty singular claim! and in that light it ought to be viewed. If the dissenters, therefore, wished for power, they could not reasonably expect to receive it on terms different from those which other persons, admitted to power, were obliged to undergo. They all well knew, that every magistrate, of every description, from the lowest to the highest, was obliged, previous to his admission to office, to give a test of his attachment to the establishment in church and state by taking the sacrament. The sovereign on the throne, who was, in fact, the first magistrate in the country, and the source and fountain of all subordinate place and power, was himself obliged to give the public a test of his future faithful discharge of his duty in his administration of the executive government of the country; and could it be maintained by fair argument, that the dissenters had reasonable cause for complaint, when they, by the test and corporation acts, were put to no greater hardship, than that to which every other person holding an office of trust and power was obliged to submit? —A right hon. gentleman (Mr. Fox) had laid it down, that the true mode of judging of men's opinions, and the probable danger that might result from them, was not by inferences drawn from their known sentiments, but by their effects and overt acts. To this he could not subscribe, because it went a great deal too far. Did not they all know, that one of the first duties of government was, to prevent dangers to the civil constitution, and not to wait till it broke into act? Upon what other principle did the famous exclusion bill rest, than the apprehensions of the legislature that the duke of York, from being known to be a Papist, would endeavour to subvert the civil constitution of the country, to which the doctrines of the Popish religion were notoriously inimical? The duke of York had committed no overt act, and his conduct when James 2nd proved the prudence and precaution of those who had supported the bill of exclusion. — With regard to the principles of toleration advanced by the right hon. gentleman, the right hon. gentleman did not seem to be aware to what an extent they might be pushed, and that it was not the dissenters alone who would be entitled to hold offices of trust and power, if the principles he had laid down and argued from were to be admitted, but dissenters of every denomination; the Jew, the Mahometan, the disciples of Brama, Confucius, and of every head of a sectary. [Mr. Fox cried Hear, hear!] Mr. Powys observed, that the liberality of the right hon. gentleman's mind would not permit him to refuse his assent to an observation, which surely proved, that great inconvenience, and some danger to our civil constitution, might arise from suffering men of different religious persuasions from the establishment to find their way to places of great trust and importance. As to the state of representation in parliament, he was ready to admit, that from accident and lapse of time, it certainly had become incomplete and irregular; but irregular and incomplete as it might be, when the representation was once collected, and they were met in the House, where they became a branch of the legislature, acting for the good of the whole, the machine rolled on safely, and every end was fully answered; and so it would continue to be as long as the several branches of the legislature kept within their proper limits and did not encroach on each other.—Mr. Powys declared himself a warm admirer of the church establishment of this country, and remarked, that the House, from its majority being churchmen, in the proportion of greatly

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more than ten to one, was a proof that the people in general were of his opinion with regard to the established church; and should the majority ever consist of dissenters, they would undoubtedly obtain an extension of immunities. He concluded by observing, that he conceived there ought to be some sort of test or other for the dissenters, and therefore he considered it as his duty to vote against the present motion, under the firm persuasion, that should it succeed, it must, as the natural consequence of having removed all tests whatever, abolish the whole difference of situation between the dissenters and those of the established church.

Mr. *Yorke* said, that he would not have troubled the House at a time when so many gentlemen were desirous of delivering their opinions, if he had not felt himself particularly circumstanced with respect to the question. When an hon. gentleman proposed in the year 1787 a motion of a similar tendency to that which was actually under the consideration of the House, he thought it a motion which the House might have complied with, provided that the security of the church was not likely to be impaired by such a compliance, and that the complete and permanent satisfaction of the protestant dissenters would be the probable consequence of it. He considered those as objects of great importance to the tranquillity of the country, which it was necessary for the House to attend to at all times, and particularly at the present moment. In voting for the motion of the hon. gentleman, he looked to those objects with some anxiety, and though, upon a full consideration of the circumstances under which the present motion was introduced, he could not give it the same conscientious support that he had formerly done; yet he considered the satisfaction of the dissenters so extremely desirable, that if a repeal of the test laws would insure that object, he should think it a proper concession, if it could be made consistently with the security of the ecclesiastical and civil establishments of the country. But, he could not assent to a motion for a direct and unqualified repeal, especially as the right hon. gentleman had controverted the propriety of substituting any other security instead of that which he was desirous to remove. The present laws had existed so long, that they might almost be considered as ancient land-marks of the constitution; they had been frequently so regarded in the best of times, as at the revolution, as after the accession of the Hanover family, when the act against occasional conformity was so properly repealed. The public merits of the dissenters had been alleged as a reason for repealing these laws. But though the propriety of their conduct in many instances must be acknowledged by every one who had ever looked into the history of this country, yet, it could hardly be stated that this was of itself a sufficient reason for admitting persons of every description into offices of trust and power without paying attention to their political opinions. An hon. gentleman had stated that every regard was due, and that every attention ought to be paid to tender consciences. In this idea he most heartily concurred; and, persuaded that a prudent and well-timed relaxation in some particular points would contribute to the security of the church, and redound to the honour of the promoters of such a remission, he should rejoice to see a proposition for some reform in the articles of faith, and in the formalities of the liturgy, voluntarily brought forward by those from whom it would come with the greatest propriety.

Mr. *Burke* rose. He observed, that at two preceding periods, when the question had been agitated, he had absented himself from the House, not having brought his mind to any decision on the subject, and even yet he had not been able to satisfy himself altogether, though certainly in a much greater degree than before, when he could not lay hold of any one straight forward principle for the better guidance of his judgment. He was now, however, from information lately received, ready to say why he could not vote for his right hon. friend's question. In every discussion relative to religion, he was sorry to see the appearance of any thing like party spirit, because he thought such subjects ought not to be mingled nor contaminated with party, but argued on their own grounds solely. Every individual member, whatever his political sentiments might be, and however they might differ from those of other gentlemen, ought never once to suffer them to prejudice his judgment; neither did it become him to allude to them in argument. It had given him concern, therefore, to observe that the chancellor of the exchequer had directed a personal sneer

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at his right hon. friend who made the present motion, by invidiously putting the case, that if a man of his right hon. friend's bold and enterprising character were to come into power as a minister, and countenance the dissenters, they might obtain a footing in places of great trust, and thus become capable of endangering the safety of the civil constitution of the state. The manner in which his right hon. friend had opened the question, and the many very weighty and sound arguments he had brought forward in a manner so open and clear, might, he should have imagined, have rescued his right hon. friend from such a sarcasm. He was, he owned, the more surprised, because there had been a minister who formerly enjoyed a seat in that House, and this very minister had held publicly in the House of Lords, and in the face of the bishops, a language respecting churchmen, and the doctrine and ritual of our established religion, ten times more broad and gross than any thing his right hon. friend had said of the high churchmen in former days. The minister to whom he alluded was a man of brilliant talents and acknowledged abilities; a minister who had directed the government of this country with great glory to its national character, and great safety to the constitution, both in church and state. The minister in question was the late earl of Chatham. In the debate occasioned in the House of Lords, by the second application, Dr. Drummond, the archbishop of York, having called the dissenting ministers "men of close ambition," lord Chatham said, "that this was judging uncharitably, and that whoever brought such a charge against them, defamed them." Here he paused, and then went on—"The dissenting ministers are represented as men of close ambition. They are so, my lords; and their ambition is to keep close to the college of fishermen, not of cardinals, and to the doctrine of inspired apostles, not to the degrees of interested and aspiring bishops. They contend for a spiritual creed, and spiritual worship. We have a calvinistic creed, a popish liturgy, and an Arminian clergy."

Thus had that noble lord selected the worst names of other religions, and applied them to our church and liturgy. The earl of Chatham was always regarded as the protector of the dissenters, and yet Mr. Burke said he had never heard that the safety of the church had been once thought in danger during his administration. At his death it was generally conceived that he had left the protection of the dissenters, with his mantle, to a noble earl in the other House. That noble earl (the earl of Shelburne) had since been at the head of the government of this country, and the right hon. gentleman over the way, had been, at the same time, in administration, and no complaint had nevertheless been made when that administration ceased, that the church was left less safe by the noble earl. An intimate and worthy friend of his, the late sir George Savile, had also been an avowed friend to the dissenters, and yet he verily believed that had sir George Savile ever been first lord of the treasury, he would have thought it his duty to protect the established church, and save it from the least innovation; it was among a minister's first duties. The right hon. gentleman, therefore, had no ground whatever for imagining or suggesting, that if his right hon. friend were to be a minister, he being avowedly a friend to the dissenters, the safety of the church would become endangered.

His right hon. friend, Mr. Burke observed, had rejoiced that the lower house of convocation had not been convened; but Lazarus only sleepeth, he is not dead, was a fact which ought to be remembered. The lower house of convocation was not out of existence; it lay dormant, indeed, and in a state of dormancy, in his mind, it ought always to continue, unless when some real and great question, alarming to the safety of the church, rendered its meeting necessary. His right hon. friend had begun his speech with laying down the principles of toleration and of persecution! all persecution, civil or religious, was certainly horrible; but care ought to be taken that men did not, under colour of an abstract principle, deceive even themselves. Abstract principles, as his right hon. friend well knew, he disliked, and never could bear; he detested them when a boy, and he liked them no better now he had silver hairs. Abstract principles were what his clumsy apprehension could not grasp; he must have a principle embodied in some manner or other, and the conduct held upon it ascertained, before he could pretend to judge of its propriety and advantage in practice. But of all abstract principles, abstract principles of natural right—which the dissenters

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rested on, as their strong hold—were the most idle, because the most useless and the most dangerous to resort to. They superseded society, and broke asunder all those bonds which had formed the happiness of mankind for ages. He would venture to say, that if they were to go back abstractedly to original rights, there would be an end of all society. Abstract principles of natural right had been long since given up for the advantage of having, what was much better, society, which substituted wisdom and justice, in the room of original right. It annihilated all those natural rights, and drew to its mass all the component parts of which those rights were made up. It took in all the virtue of the virtuous, all the wisdom of the wise. It gave life, security, and action to every faculty of the soul, and secured the possession of every comfort which those proud and boasting natural rights impotently held out, but could not ascertain. It gave alms to the indigent, defence to the weak, instruction to the ignorant, employment to the industrious, consolation to those who wanted it, nurture to the helpless, support to the aged, faith to the doubtful, hope to those in despair, and charity to all the human race; extending itself from acts of tenderness to the infant when it first cried in the cradle, to acts of comfort and preparation to the dying man on his way to the tomb. Such were the advantages attributable to society, and also deducible from the church, which was the necessary creature and assistant of society in all its great and most beneficial purposes.

Mr. Burke professed his peculiar regard and reverence for the established church of this kingdom, and spoke of the necessity which existed to preserve it safe and entire at a time like the present, when he contended there was, not a false alarm calculated to answer some purpose of mischief and oppression meditated on the established church herself, but strong and warrantable grounds of serious apprehension for the church's safety. He did not clearly understand what his right hon. friend meant, but he believed him to concur with him, that men were not to be judged of merely by their opinions, but by the conduct which they held compared with their opinions. His rule ever had been to trace effects to their causes, and thus by recurring to first principles, to judge, as his right hon. friend had well argued it, *à posteriori*, of the facts which followed. It was, therefore, by the conduct of the disenters that he judged of them, by their acts, their declarations, and their avowed intentions.

That he might not be charged with calumniating the dissenters, whom he had formerly espoused with the utmost zeal, when, with sir George Savile, he had contended for their cause, in respect to the bill last passed in their favour, some fourteen years ago, but whom he now accused of holding conduct, and of asserting doctrines which threatened the most imminent danger to the future safety, and even the very being of the church, he would recur to facts, and produce such proofs of what he asserted, as should put the matter beyond a doubt, and establish, to the satisfaction of every man who heard him, that he had attended very sufficiently to the broad and clear distinction between the fears of a man alarmed on the reasonable conviction of the approach of real danger, and those kinds of terror which originated in mere cowardice and unmanly weakness, before he admitted the apprehension that filled his mind at present. Mr. Burke, after a definition of the three distinct points of view in which danger from any quarter to the church was to be considered, as to its nearness, its imminence, and the degree of mischief to be dreaded from it, proceeded to establish facts which would, he said, prove the extent of each of the three divisions into which he had resolved the consideration. —His first great proof was, the production of two printed cathechisms circulated by the dissenters for the use of young non-conformists, written by Mr. Robinson and Mr. Palmer. The first catechism, he observed, contained no precept of religion whatsoever. It consisted of one continued invective against kings and bishops, in which every thing was misrepresented and placed in the worst light. In short, it was a catechism of misanthropy, a catechism of anarchy, a catechism of confusion—grossly libelling the national assembly in every part and passage; and these catechisms were to be put into the hands of dissenter's children, who were thus to be taught in their infancy to lisp out censures and condemnations against the established church of England, and to be brought up as a rising generation of its determined enemies, while, possibly, the dissenting preachers were themselves recommending the same sort of robbery and

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plunder of the wealth of the church as had happened in France, where some men were weak enough to imagine a happy revolution had taken place: but where he knew the most miserable system of government at this moment prevailed that ever disgraced the annals of Europe.

Mr. Burke dwelt on the destruction of the establishment of the French church as a circumstance peculiarly shameful and scandalous Those who had compared the church of Rome to the whore of Babylon, the kirk of Scotland to a kept mistress, and the church of England to something between a prostitute and a modest woman, would probably be preaching up the same doctrines to their congregations, while the rising race of dissenters were, perhaps, imbibing those principles so pernicious in themselves, and so dangerous to the safety of the established church of this country; and how could he tell but that it would end in the acting the same shameful scene, respecting the plunder of the wealth and revenues, and the accompanying demolition of our church, as it had done in the case of the church of France? A hint of the use to which the wealth of our church might be appropriated, had been given, during the American war, by a noble duke (of Richmond) in the House of Lords, when a bishop was speaking in favour of that war, the noble duke, in reply, mentioned the millions the war had cost the country, and said, as money must be had, the country knew to whom they might resort for it. The noble duke, therefore, advised the bishops to beware what conduct they pursued. Mr. Burke considered this as a suggestion which the dissenters might, on a new hint, improve on, and thence induce the mob to view the wealth of the church as a better object than the bribes of election candidates. Mr. Burke produced the books of catechism, of one of which (a political catechism) he read the title, with an entry from the general meeting at Harlowe, where all the dissenters of that division assemble, declaring their approbation of the work, and their resolution to circulate and recommend it in their division. Mr. Burke read also two or three passages pointed at the church establishment. Having laid great stress on these, he produced a letter which, he declared, had only come to his hands the preceding day, written by Mr. Fletcher, a dissenter, from a meeting of dissenting ministers, holden at Bolton, in Lancashire. Mr. Fletcher stated in his letter, that the meeting avowed such violent principles, that he would not stay, but came away with some other moderate men. It described, that one member, on being asked, what was their object, and whether they meant to seek for any thing more than the repeal of the test and corporation acts, answered, in the language of our Saviour, "We know those things which ye are not yet able to bear." And on another member's saying, "Give them a little light into what we intend," they informed him, that they did not care the nip of a straw for the repeal of the test and corporation acts, but that they designed to try for the abolition of the tythes and liturgy. Mr. Burke then mentioned Dr. Priestley's declaration, "that he hated all religious establishments, and thought them sinful and idolatrous," and he produced a letter written by the doctor* in which he talked of a train of gunpowder being laid to the church establishment, which would soon

* Extracts from a preface to a publication, intituled, "Letters to the Rev. Edward Burn, of St. Mary's Chapel, Birmingham." By Dr. Priestley.

"On this account, I rejoice to see the warmth with which the cause of orthodoxy (that is, of long-established opinions, however erroneous), and that of the hierarchy, is now taken up by its friends; because, if their system be not well founded, they are only accelerating its destruction. In fact, they are assisting me in the proper disposal of those grains of gunpowder, which have been some time accumulating, and at which they have taken so great an alarm, and which will certainly blow it up at length; and, perhaps, as suddenly, as unexpectedly, and as completely, as the overthrow of the late arbitrary government in France. If an inhabitant will not submit to a thorough examination and reasonable repairs of the building he occupies, the consequence must be, that, without gunpowder, or even a high wind, it must some time or other fall, and happy may he think himself, if he can escape unhurt from the ruins. If this should be the case with the church of England, the clergy cannot say that they have had no warning. They are labouring for its destruction more than I am. If I be laying gunpowder, they are providing the match, and their part of the business seems to be in greater forwardness than mine. What a contrast is now exhibited between the two rival nations of France and England, and how many Englishmen blush to look upon it!—Another foolish and unjust war, like that with America, which was chiefly urged by the clergy (and such another, if the court proposes, the clergy will certainly

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blow it up, if the danger were not avoided by the friends to the establishment; the doctor added, "and if that danger were avoided, and they refused to repeal the test and corporation acts, the establishment would soon tumble about their ears." Mr. Burke animadverted on the doctrine contained in the letter just read by him, which he considered as a serious indication on the part of Dr. Priestley, at least, of a determination to proceed step by step till the whole of the church establishment was levelled to its foundations. Mr. Burke lastly, produced Dr. Price's sermon, whence he read an extract; observing, afterwards, that he agreed with his right hon. friend that the church and the pulpit ought to be kept pure and undefiled, and that politics should not be adverted to in either. With equal propriety might theological discussions, he said, be taken up in that House, and questions solely religious be debated there.

From the proofs he had adduced, consisting of the extract from Dr. Price's sermon, the letter of Dr. Priestley, the avowed language of that divine relative to religious establishments in general, the catechisms of Mr. Robinson, and Mr. Palmer, and the letter of Mr. Fletcher, Mr. Burke drew this inference—that the leading preachers among the dissenters were avowed enemies to the church of England; that they acknowledged their intentions, and that thence our establishment appeared to be in much more serious danger than the church of France was in a year or two ago. He reminded the House, that nothing could have been, to all appearance, more safe and secure, than the hierarchy of France, at a very short period since; every thing, therefore, that fell short of the present danger of the church of England, ought to be regarded as a symptom of serious apprehension, and to challenge new caution and additional care. He could not admit that his right hon. friend had, with any sort of justice, ascribed the fatal incidents that had attended the church of France, plundered and demolished in so disgraceful a manner, to the punishment which Provinence, in its wisdom, had allotted for the wickedness and cruelty of the French government evinced in the revocation of the edict of Nantz. Such an idea was chimerical and profane. Was it consistent with the justice of Providence to punish Louis 16th for the crime of Louis 14th? As well might it be argued, that the danger which now threatened the church of England was a punishment inflicted by the hand of Providence on this country for the persecutions of Laud, Wickliffe, and all the horrid cruelties, burnings, and murders, perpetrated under pretence of religious zeal in distant periods of our history! The chancellor of the exchequer had shown the most laudable attention to the preservation of our religious establishment. It was peculiarly the duty of any member of that House, standing in the

second), can hardly fail to bring their affairs to a crisis * If they be wise, they will consider the signs of the times, and be very temperate in all their proceedings. *Fas est et ab hoste doceri.*—Let them take care, lest by too vigorously resisting our application for what was never intended to hurt them, and what in itself cannot possibly hurt them, they should, by their own violence, do themselves the most serious evil. I have always been an avowed enemy of all civil establishments of Christianity, but many dissenters are not so. I foresee, however, that they soon will be, and that by means of these discussions, the sentiment will become more general in the nation at large. It begins to be adopted even by the Catholics.—The utility of ecclesiastical establishments, is a question that it behoves the clergy always to keep out of sight as much as possible. But their rage against the dissenters will obtrude it on the public, and, in consequence of this, if they proceed as they have begun, I should be sorry to insure their system twenty years longer. Whether I be more pleased, or displeased, with their present violence, let them now judge, the greater their violence, the greater is our confidence and final success.—If any person, whose eye it may catch (the preface), take a useful hint from it, it will be well; but an old and true proverb says, "Experience keeps a dear school, but fools will learn at no other." Nations, and all great bodies of men, are generally in this situation. They will learn very little except in this dear school."

* "When I was attending a debate in the House of Lords, in the course of the American war, and one of the bishops was taking the part of the minister in it, the duke of Richmond suddenly rose, and bade the bishops beware of war. "War," said he, "is attended with expense; and if we be distressed, and must have money, we know where we may get it." Indeed, the addition of one hundred and fifty millions to the national debt, occasioned by that war (which may be called a war of the court and of the clergy) I consider as a great step towards the destruction of hierarchy. How powerful an instrument of reformation a heavy national debt may be, we see in a late glorious revolution in France. May all great evils produce as great a good."

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right hon. gentleman's situation, to guard with anxious care an object so intimately connected with the state as the church of this country, and the right hon. gentleman had discharged this duty with great zeal and with great ability. That House also had the same duty imposed on them; they were equally bound to watch over the church with due and constant attention, and this appeared to be a moment peculiarly requiring their interference.

Had the question been brought forward ten years ago, Mr. Burke said, he should have voted for the repeal. At present, in his opinion, a variety of circumstances made it appear imprudent to meddle with it. For the dissenters, as a body he entertained great esteem. There were among them many worthy and most respectable individuals. If they would come fairly forward, and let their actual desire and meaning be ascertained he would meet them. He, for one, should be glad to sift their object, and if it were such as a rational legislature could safely grant, he, at least, should have no objection. With several dissenters he had long lived in the greatest intimacy and happiness. Indeed, they were among those of his friends whom he valued most highly, but if the test and corporation acts were now repealed, some other test ought to be substituted; the present he had always thought a bad and insufficient test for the end which it was meant to accomplish. He was convinced that it was an abuse of the sacramental rite, and the sacramental rite was too solemn an act for prostitution. Where conscience really existed, it ought not to be wounded. By wounding a man's conscience, they annihilated the God within him—if he might be allowed so to express it—and violated him in his sanctuary. He professed himself ready to grant relief from oppression to all men, but unwilling to grant power, because power once possessed was generally abused. He declared that he had a draft of another test in his pocket * and he had formed an idea of moving the previous question, with a view afterwards to move for a committee to examine into the conduct of the dissenters, the doctrines respecting the established church which they had recently avowed, and all that part of their conduct, to which he had adverted, as matter of established fact, and not of vague or wild assertion. He was desirous of proceeding regularly, and with a due regard to parliamentary forms. He did not wish the House to rely on his facts, before he had established them by proof, of which he knew them to be capable. If however, they should, upon investigation, not appear to be founded, he would hold himself bound to vote for the repeal of the test and corporation acts.

Mr. Burke said, he would be entirely guided by the House; if they should think the best way of laying the question at rest, would be by coming to a vote upon the motion, he would submit. But if the House should be of opinion, that it would be better to move the previous question on the present motion, and institute a committee, in order to afford the dissenters an opportunity of refuting what he had asserted (which, he owned, he himself thought the most eligible mode of proceeding) he would pursue that line of conduct. Mr. Burke, to provoke the caution of the House, instanced lord George Gordon's mob, in the year 1780, and the dangers which were then likely to have ensued under a blind idea that they were acting in support of the established

* The following is a copy of the Test which Mr. Burke wished to have substituted in the room of what was intended to be repealed:

"I *A. B.* do, in the presence of God, sincerely profess and believe that a religious establishment in this state is not contrary to the law of God, or disagreeable to the law of Nature, or to the true principles of the Christian religion, or that it is noxious to the community; and I do sincerely promise and engage, before God, that I never will, by any conspiracy, contrivance, or political device whatever, attempt or abet others in any attempt to subvert the constitution of the church of England, as the same is now by law established, and that I will not employ any power or influence, which I may derive from any office corporate, or any other office, which I hold, or shall hold, under his majesty, his heirs and successors, to destroy and subvert the same; or, to cause members to be elected into any corporation, or into parliament, give my vote in the election of any member or members of parliament, or into any office, for, or on account of their attachment to any other, or different religious opinions or establishments, or with any hope that they may promote the same to the prejudice of the established church, but will dutifully and peaceably content myself with my private liberty of conscience, as the same is allowed by law."

"So help me God."

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religion, when they were endeavouring to enforce the most intolerant persecution, and had nearly levelled the constitution in church and state, the rabble having surrounded that House, and created a most serious alarm lest the national credit should be destroyed by their demolishing the bank. In a less important part of their conduct, also, they had markingly described their drunken folly and irrational conduct, by selecting the judges and bishops for the peculiar objects of their vengeance.

Mr. *W. Smith* said, he need not express his wonder that the right hon. gentleman should have applied so many harsh epithets to a meritorious and respectable body of men, who had by no part of their conduct deserved to be treated with so much scurrility, when he recollected that the same right hon. gentleman had attacked a whole nation, while engaged in the very act of struggling for their liberties, and called them an irrational, unprincipled, proscribing, confiscating, plundering, ferocious, bloody, and tyrannical democracy. He would not detain the House with going into a minute answer to the whole of a speech, which, indeed, was not worth an answer, but would merely content himself with saying a word or two on a few points which absolutely required some reply. Being one of the minority of that House alluded to in the debate, by being a dissenter, and having all his life mixed with the dissenters, he conceived he ought to know something of their principles; but he declared upon his honour, that he never heard any thing of the principles imputed to the dissenters by the right hon. gentleman. With regard to the political catechism, so little was it countenanced, that he had never seen it before the right hon. gentleman had produced it that day, Mr. Robinson was a man of extraordinary ability, but very eccentric, and by no means looked up to by the dissenters as a person qualified to lead them as a body. With regard to the Easter Association, he had never heard of it, which was rather extraordinary, as he had, for the last five years, been in possession of a house within two miles of the place. In respect to Dr. Priestley's letter, if gentlemen would read it considerately, they would see that the alarming point of view in which the right hon. gentleman had placed it, was wholly owing to the artful manner in which the right hon. gentleman had contrived to supply it with inuendoes. The text was sufficiently innocent, but the right hon. gentleman had been ingenious enough to cram it with inuendoes of the most violent and inflammatory nature. It was true, the train of gunpowder was mentioned, but that was because Dr. Priestley, finding the manner in which his mention of the train of gunpowder had been misunderstood, and misrepresented, was necessarily obliged to introduce the mention of it again in order to explain, that his gunpowder was nothing more than a figurative expression, and only meant reason and argument. With regard to the observation of Mr. Powys, that a dissenter being obliged to take the test, on entering into office, was nothing more than undergoing the same forms which every magistrate, from the most inferior, up to the sovereign himself, was obliged to undergo, he should beg leave to answer that the cases were by no means parallel. The sovereign in taking his coronation oath, could not be compared to a dissenter's being compelled to take the sacrament.

Mr. *Samuel Smith* said, he should be obliged to give a vote different to what he gave upon a former occasion. He felt it a duty incumbent upon him to follow the wishes and instructions of his constituents, whenever he could obey them consistently with the duty which he owed to the country at large. If, in voting against the present question, he should deprive, for a time, a numerous body of loyal subjects, of certain rights to which they conceived themselves entitled, but of which a jealous apprehension of ecclesiastical security had found it expedient, in less enlightened days, to deprive them, he did but yield an acquiescence to the opinion of many able men, who opposed the repeal of the acts, of which the dissenters complain, and consented to their continuing in force. He must take notice of an argument, or rather an assertion, which had been strongly urged, that it was at the eve of a general election, that the dissenters took an opportunity of applying for a redress of their grievances. If that argument or assertion were intended to have any weight against them, it must be by an insinuation, that they mean by their influence at elections, to awe and bias a determination, contrary to the cool judgment and opinion of many members: No assertion could be more ill founded, and for many reasons, a very strong one was, that the

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dissenters, forming but a small body in comparison with those who were in full possession of their natural rights, could not, by any means, make it a popular question. Another reason was, that it appeared not the kind of question likely to catch support at first sight, but must depend for its advocates upon the cool and deliberate judgment of men, attentively considering the necessity of restrictive laws at the time they were enacted, and comparing that necessity with the present times. He could bear testimony to the views and intentions of the dissenters, and to their liberality of sentiment. Their directions were not of the compulsatory kind; a large and respectable body of them among his constituents had not wished him (though they by no means relaxed in their claims upon the justice of parliament) to persevere against the instructions of a more numerous, as well as a very respectable meeting of constituents, even in support of their pretensions, and his former vote for the repeal.

Mr. *Wilberforce* said, that had he been able to catch the Speaker's eye earlier in the day, he should have gone at large into the question, having been in the House ever since eleven o'clock in the morning, with a short interval, he was too much exhausted to take up the time of the House for more than a very few moments; yet he felt it his duty not to give altogether a silent vote. He rose, therefore, merely to declare, that he should decidedly vote against the motion. The question was now brought into a narrow compass; an establishment of religion was conceived to be advisable at least, if not necessary, and the only thing at issue was, whether this would be endangered by granting the dissenters request. Under all the circumstances of the case it was his firm conviction that it would, and therefore he should resist the application.

Mr. *Tierney* said, that as he represented a borough in which there were several hundreds of dissenters who were his constituents, he thought it his indispensable duty to rise and rescue them from the imputation of forcing a test on their representative. He declared, he had never any connexion with dissenters otherwise than with his constituents; but that though there were so many of the dissenting class, they had not attempted to impose any test upon him: on the contrary, they had informed him, that, after his election they should he glad to see him, and talk with him on the subject, wishing him to vote for the repeal, unless he had any particular objection.

Sir *W. Dolben* rose to rescue the clergy from the imputations which he conceived to have been cast upon them by Mr. Fox, in his observations on the conduct of the high churchman, at different periods of our history. Sir William adverted to the conduct of our clergy in the reign of Charles 1st, and contended that they had stood by the monarch and the legal government, till, by the machinations of the dissenters, the prince, the state, the church, and even the constitution itself, had been involved in one common ruin.

Mr. *Fox* rose to reply. He began with observing, that however exhausted and fatigued he might feel himself from the length of the debate, at that late hour, yet with the strength he had remaining, he would exert his best endeavours to answer every argument that had been advanced against the motion which he had that day the honour to make. There had been certain prints in which he had been misunderstood, and many of his arguments had been unfairly stated. This might be owing to an inaccuracy in his method of laying down his positions, and not to any intention of misrepresenting his argument. He had contended, upon the principle of toleration, that we were not warranted in deducing inferences from men's opinions contrary to their professions; unless their conduct and principles disagreed. The chancellor of the exchequer had gone the length of arguing, that we might deduce inferences from our own opinions of the effect of the conduct of an adversary, without attending to his actions; whereas, we ought to give every man credit for his conduct, until his actions contradicted his professions. The dissenters ask for a simple repeal of the test laws. The minister's argument went upon this ground—If the dissenters obtain the object of their present application, they would be encouraged to grasp at more; and there was reason to apprehend from their principles that they would not relax in their endeavours, until they had completely subverted the present establishment. But this was not the declaration of the dissenters; it was merely the unfair inference of the minister, judging of evil intentions from men's opinions and not from their actions. From the argu-

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ment of the right hon. gentleman last year, and the points upon which he had then principally insisted, he had been induced to meet his objection, and therefore he had set out with laying down the principle of toleration in opposition to that of persecution. In explaining himself upon this subject, he had endeavoured to prove, that if the principle of persecution, as generally received and understood, was originally a right principle, then it would follow that the bloody transactions which took place in the reign of Charles 9th, such as the massacre of Paris, and the murder of the Protestants; as well as the cruelties of Smithfield, and other places, were all mild, benevolent, and merciful acts. If the original principle of persecution extended to such unjustifiable enormities, must it not be palpably wrong? He then abandoned such a principle as untenable; and argued upon that of toleration. But, in calling the repeal of the test laws a question of toleration, he might not be exactly accurate. Though it might not come within the extent of the true principle of religious toleration, yet of this he was confident, that it was a question of justice, upon which the claim of the dissenters was well-founded, to the indulgence of the House.

Upon this nice and subtile distinction, however, an objection had been urged by the right hon. gentleman against his motion, which was nothing but specious sophistry and inconclusive reasoning. He should ever protest against the principle of prejudging the conduct of another from his opinions, when his conduct and declarations were directly the reverse—to say any man intended mischief when he professed friendship, and especially if his conduct accorded with such a declaration, was very unfair, and unjust. A resemblance had been attempted to be drawn between a religious test and an oath. But in what did it consist? In taking an oath, it was true, a man made a religious appeal; but it always was an appeal to his own religion. A Jew was sworn upon the Old Testament; the greater number of Christians upon the Evangelists; the Quaker by his own affirmation; and the Mahometan upon the Alcoran. The solemnity of an oath was allowed every conscientious man, to be taken agreeably to his own particular mode of religion. Where then was the analogy between a religious test and the taking of an oath? Was it any thing like men of different persuasions, professing different creeds, submitting to the sacramental test? Certainly not. Here the right hon. gentleman's ingenuity and sophistry had also failed him.

An hon. baronet had thought it necessary to enter into an elaborate defence of the respectability of the clergy as a body. Had there been attempted any general attack upon the church? No. In speaking of the church he had only animadverted upon its conduct, when it presumed to act as a party. He should ever reprobate the principles and conduct of the high church party, who had uniformly distinguished themselves as inimical to the constitution, and to the civil rights of the subject. But in that class of the clergy denominated the low church, there had been men of liberality and talents whom he should ever hold in the greatest respect. They were worthy members of the church; had proved themselves distinguishingly instrumental in the establishment of political freedom, at the Revolution. Many now in this party, he understood, were sincere friends to his motion; and had heartily joined in the intreaty of the dissenters to bring the subject forward. He was happy to find that there were clergymen of such liberality of spirit and disposition in the present day. An hon. gentleman had observed, that the subjects of the test and corporation acts had better have been discussed separately. He could not forbear expressing his surprise at this observation: as the subjects of both acts were so intimately connected and involved, in his opinion, as to present themselves fitter for consideration and discussion together than separate. If they were to be considered separately, the corporation act appeared to him the most exceptionable in a constitutional point of view; as a restriction upon the subject in the exercise of a natural right ought to be regarded in that House with a greater degree of jealousy, than even a restriction upon the king in the exercise of his royal prerogative.

What he had heard with the greatest concern in the course of that evening's debate, had been the speech of his right hon. friend (Mr. Burke). It had filled him with grief and shame. Sentiments had been uttered which he could have wished to have remained a secret for ever. Though he was indebted to his right hon. friend for the greatest share of the politi-

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cal knowledge he possessed,—his political education had been formed under him,—his instructions had invariably governed his principles; yet, mortified as he had been by his speech of that evening, he had, however, received this consolation from it, that every principle which he had laid down, had been avowed by his right hon. friend in the course of his speech. While he had stated his principles, and had argued from an application of inferences deducible from those principles, his right hon. friend had, on the contrary, taken pamphlets, private letters, anecdotes, conjectures, suspicions, and invectives, for the materials of his speech; which he had worked up with all the charms of fancy and the embellishments of oratory, for which his right hon. friend was so eminently distinguished. Such had been the grounds upon which he had founded his opposition to the motion under discussion, to which he declared he should have been a friend ten years ago. What did this prove? but that he had retained his opinion upon the subject ten years longer than his right hon. friend. With respect to the anecdotes quoted of the duke of Richmond, having addressed a singular speech to the bishops during the American war, he saw an analogy between that story and the argument of this day.

The conduct of the dissenters in declaring that, at the next general election, they would only support men who were well affected to the cause of civil and religious liberty, he did not see liable either to objection or censure. He was astonished to hear gentlemen talk of this as a test imposed by the dissenters upon their representatives. Did not gentlemen on the other side the House declare in the course of the debate, that, in their own opinions, they were friendly to the motion; yet, in obedience to the instructions of their constituents, who were churchmen, they considered themselves as bound to oppose it. Was not this imposing a test? How different the conduct of the dissenters, who were the constituents of the hon. gentlemen (Messrs. Windham and Tierney), who assured them they might vote on this question according to their conscience! He wished churchmen had shown as much liberality. In Dr. Priestley's manly declaration of his individual opinion, expressive of dislike of establishments, he saw no criminality whatever. Any man might avow his dislike of any civil institution; but as long as his opinion was not brought into action there could be no criminality. If such conduct was criminal, he desired to be considered as a participator in the guilt.

The production of the letter of Mr. Fletcher from Bolton, by his right hon. friend, he acknowledged, did not a little surprise him; for if ever there was a paper which furnished an argument in favour of the question, that letter was one. He had never heard of the name or conduct of Mr. Fletcher before; but if any argument could be depended on, that which Mr. Fletcher had urged was essential, in his opinion, towards proving, that those dissenters who deserve well of the legislature, ought to be separated from those who are not inclined to be content with the simple repeal of the test laws. What had been the argument of his right hon. friend, in a debate during the American war, by which he had done himself infinite honour? It was a doctrine, *primâ facie*, which appeared an absolute paradox, but founded, notwithstanding, in true wisdom and sound policy. The subject was the division of Massachusett's Bay from the province of New York and others. "What!" said his right hon. friend, "separate Massachusett's Bay from New York, with a view to adopt this weak and absurd maxim, *divide et impera*? I scout the idea—I never will consent to it; but I will agree to the division of America." The House, imagining his right hon. friend had committed a blunder, continued for some time in a roar of laughter. But what was his explanation? It was this: "I will divide America, not by separating Massachusett's Bay from the other provinces, but by abandoning the disloyal and disaffected provinces, and preserving those which are well disposed to us, not by any coercion, but by granting them all they wish for." The same prudent advice would be politic for the House to adopt in regard to the dissenters. Separate the dissenters—break their union—abandon those who are unreasonable—and grant to all such as are moderate all they so justly require. "I verily believe," said Mr. Fox, "if you repeal the test laws, there will be an end of all farther claim of the dissenters to the indulgence of the legislature." But this was only his own speculative opinion, and not any pledge offered to the House, warranted by any declaration of the dissenters; they were at liberty to lend as much credit as they thought proper to this opinion.

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But how was the strange dereliction of his right hon. friend from his former principles to be accounted for? He could only ascribe it to the effect of his too great and nice sensibility; whose chief delight had always been benevolence and mercy; whose feelings had been shocked and irritated by a mistaken idea of the transactions in France, which had been nothing more than the miseries to which every country was unavoidably subject, upon every revolution in its government, before the new constitution had acquired its full operation and establishment. The imagination of his right hon. friend had eagerly caught hold of such objects, and, in contemplating the ruin of the government, the desolation of the church, the misery of the beggared ecclesiastics, and the general distresses of the inhabitants, he had actually lost the energy of his natural judgment, through the exquisite acuteness of his feelings; otherwise, a person of his great good sense could never have been so led astray into enmity against the just cause of the dissenters, as a body, merely because Dr. Priestley, Mr. Palmer, and Mr. Robinson happened to differ from him in their speculative opinions. The assurance of the dissenting ministers, when the bill passed about fourteen years ago, respecting dissenting teachers and schoolmasters, that they would apply no more for themselves, had been very unfairly and disingenuously applied in argument by the right hon. gentleman opposite to him. Did the present application come, as that had done, specifically from the dissenting ministers? The extract read from Dr. Kippis did not go to preclude the ministers from joining their lay brethren in an application to the legislature for a matter of general relief. The dissenting ministers, from the repeal of the test laws, had no emolument to expect, nor any advantage, civil or religious, to gain. They had been perfectly consistent with their assurances; their claims, as ministers, were perfectly distinct from those of their lay brethren; and the right hon. gentleman ought not to have confounded them, in order to tax them with a breach of good faith.

The allusion to the conduct of lord George Gordon, and the riots in 1780, he could not suffer to pass unnoticed. It was insinuated that the mob resembled the dissenters; the fact was quite otherwise. If there were any resemblance in the case, it was this: the clergy of the established church stood in the shoes of the mob; but the dissenters in those of the poor persecuted Roman Catholics. He remembered, with pleasure, the conduct of his right hon. friend upon that occasion;* it reflected upon his character great honour and applause; for, in defiance of the rage and madness of the mob, he persevered in the laudable purpose in which the House were then engaged, in extending toleration to the Roman Catholics. The mob then were illiberally insisting upon a repeal of a good law; the members of the established church were now as illiberally objecting to the repeal of a bad law. All unprincipled mobs he should ever regard with extreme horror and indignation; their cry was still the same whether they were peasants, gentlemen, or bishops. Ignorance, prejudice, or fanaticism, were their general topics of declamation. From the violence of their rage, the God of peace and order ever preserve us! Mr. Fox, congratulating himself on having been selected by men who had rather acted as his enemies than friends, to fight their battles, concluded with assuring them, that so sincerely was he a friend to their cause, that he should be ever ready, on any future occasion, to take the field for them again; under the clearest conviction that their complaint of grievance and oppression, in the present instance, was well founded.

The House divided;

	Tellers.	
YEAS	Mr. William Smith -	105
	Mr. Beaufoy - - -	
NOES	Mr. Neville - - -	294
	Mr. Powney - - -	

So it passed in the negative.

Debate on Mr. Flood's Motion for a Reform in Parliament.] March 4. The order of the day being read,

Mr. *Flood* said:—Sir, I rise to propose a reform in the parliamentary representation of the people. I cannot mention the subject, without making you sensible of its importance: it is surrounded with difficulties; some that are inherent in the subject, and more that do not in reality belong to it; difficulties of private interest in the prepossessions of those who, having benefited by the perversion of the constitution, are unwilling to restore it. To

* See vol. 21, p. 662.—Note.

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such persons I have but one application to make, and that is, that they will suspend those prepossessions till they hear what I have to propose; and then if they find that they can do a noble justice to their country, without a personal injury to themselves, that they will receive, or, at least that they will examine it. There is another sentiment which I wish to obviate, and that is, that it is preposterous for any man to attempt a reform, in which, some years ago, the chancellor of the exchequer did not succeed. Bowing to the superiority of the chancellor of the exchequer, my answer is plain; first, that I have avoided the objections that militated most strongly against his plan; next, that the lights which he has thrown on the subject, are a great assistance now; that his declared patronage of the principle, as well as that of his right honourable antagonist, are a farther encouragement; seeing that it cannot be supposed, that persons of their talents and information, who differ in so many other things, should concur in this, if it were not for the overbearing force of an irresistible conviction. I have to add, that such a principle, so vital to the constitution, and yet so strongly opposed by private interest, is the very thing that cannot be expected to succeed at once; but that it is the very thing of which we may be certain, that with due perseverance it will succeed in the end. For myself I shall only say, that I have too much confidence in the magnanimity and wisdom of this House, and of the people of England, not to trust that they will rather consider the weight of the matter, than the weakness of the mover.

Under these auspices I begin, and will say what, but in a confidence in your virtue, I dare not say, that you are not the adequate representatives of the people. That you are their legal representatives I freely admit, and that, as such, you were entitled, as well as any other House of Commons, to all that was resolved, with respect to your powers, in the last session of parliament. And I appeal to the candour of the chancellor of the exchequer, who, I am sure, will readily acknowledge that the words "full and free parliament," that were used on this occasion, were not used indirectly to anticipate the present question; nor to declare the adequacy of that representation, the inadequacy of which he has himself arraigned. But I go farther, and say, that you are not only the legal representatives of the people, but that you are an highly useful and honourable council; a council, which, in any other government of Europe, would be a great acquisition! But to the honour of the British constitution be it spoken, that that constitution entitles us to something better; namely, an adequate representation; now this it cannot be, unless freely and frequently elected by the body of the people. Before I go farther into this subject, however I must stop to notice a declaration of a right hon. member (Mr. Fox), that he was an enemy to absolute government, whether in the form of monarchy, aristocracy, or democracy. I go farther, and am an enemy to any two of those orders combined, without the intervention of the third. And though I do not distinguish between any of the three, so as to express a preference, yet I have a right to say, that as all just government must be founded in the choice of the people, and must have their benefit for its end; so it is clear, that the popular order of government is at least as indispensable, and as valuable as either of the other. Now what is the popular form of government in the British constitution? It is the representation of the people; that great arcanum and wise mystery of our government, by which it so much excels all the governments of antiquity. By this principle, though scattered over a great country, a great people can possess an efficient influence in their own legislature, without being legislators themselves. But how? not by the shadow, but by the substance of representation; or, in other words, by an actual, and not a virtual representation. Now, in what does actual representation consist? In this, that as, by the general law of the constitution, the majority is to decide for the whole, the representative must be chosen by a body of constituents, whereof the elective franchise may extend to the majority of the people. For, what can be so evident, as that, if the constituent body consisted of but one thousand for the whole nation, the representatives chosen by that thousand could not, in any rational sense, be the actual representative of the people? It is equally clear in reason, that nothing less than a constituent body, formed on a principle that may extend to the majority, can be constitutionally adequate to the return of an actual representative of the people; and that unless the people be

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actually represented, they are not constitutionally represented at all. I admit, that property, to a certain degree, is a necessary ingredient to the elective power; that is to say, that franchise ought not to go beyond property; but at the same time to say, that it ought to be as nearly commensurate to it as possible. Property by the original principle of the constitution, was the source of all power, both elective and legislative. The *liberi tenentes*, including at that time, in effect, the whole property of the country, and extending to the mass of the people, were the elective body. The persons whom they chose to parliament, sat in right of the property of their electors; and the barons sat in right of their own baronies; that is to say, of their own property. At that time they were not creatures of royal patent as now. But now that the lords are creatures of royal patent merely, and that freehold property is a very inferior part of the property of the nation, the national property is not as fully represented as it was originally, and as it ought to be still by the constitution. The constituent body is also defective in point of number, as well as in point of property. The whole number of electors is infinitely short of what it ought to be, and, what is worse, the majority of the representatives who decide for the whole, are chosen by a number of electors not exceeding six or eight thousand; though these representatives are to act for eight millions of people. A new body of constituents is therefore wanting; and in their appointment two things are to be considered; one, that they should be numerous enough, because numbers are necessary to the spirit of liberty; the other, that they should have a competent degree of property, because that is conducive to the spirit of order. To supply this deficiency, both in the representative and constituent body, my proposition shall be directed.

But I am told this is not the time. And why? because, forsooth, there are disturbances in France. Now first I say, that if those disturbances were ten times greater, than with every exaggeration they are represented to be, yet that mass of confusion and ruin would only render the argument more completely decisive in favour of a timely and temperate reform here. And why? because it is only from want of timely and temperate reform there, that these evils have fallen upon France. They could not begin with reparation in France: there was nothing to repair: they did not begin with ruin, they found ruin accomplished to their hands. Neither the king nor his ministers knew where to find the constitution. The king called upon his notables (no legal body) to see where the constitution was to be found. Not a vestige of it could be recovered. They had lived so long as slaves, that they had unlearned the constitution; they were driven to speculation, because practice had vanished; and hence all those calamities which have excited such tragical exclamations here.

To what have the convulsions at former times in England been owing? to the same want of temperate and timely correction. Had the encroachments of the Tudors been seasonably repressed, Charles 1st might not have mistaken those usurpations to be his constitutional prerogative; and so the miseries of the nation might have been avoided. Had not the evil practices of Charles 2nd been so tamely endured, as to encourage the tyranny of James, the last revolution might not have become necessary. I am no friend to revolutions, because they are an evil: I am, therefore, a friend to timely reform, and for this reason, that it renders revolutions unnecessary; whilst they who oppose such reform, may be enemies to revolution in their hearts, but they are friends to it by their folly.

Another strong argument, from the situation of France, in favour of a reform, is this, that France will improve her constitution. Now, what has enabled this country to be at all times equal, and oftentimes superior to France? Not her climate or soil, which are not superior; nor her territory nor population, which are so greatly inferior; it is only in the excellence of her government she has found her superiority. What follows? that if France improves her government, you must restore yours. Again, what is your situation as to external danger? France, the great object of external danger to England, can no longer give alarm; during her disturbances she cannot have the power; and after her liberty is established, she will not have the inclination to make ambitious war. The better her government is, the more rational will be her counsels; the more rational her counsels, the more pacific they will be. Kings may hope for glory, and their ministers and minions may hope for

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plunder from warfare; but what can the people expect from an ambitious war? Nothing but an accumulation of taxes, and an effusion of blood. Now, if a state of external danger would be a strong argument against a reform, a state of external safety is as strong an argument in its favour. Again, what is your situation at home? You are not in a state of despondency on the one hand, that might tempt you to a measure of despair; nor in a state, on the other hand, of that drunken prosperity by which nations are rendered ignorant of the present, and regardless of the future. You are in that happy medium which is the best friend to sobriety of judgment, and consequently the fittest state for framing a rational and temperate reform; the only one that I would propose, and the only one to which I would consent.

But it is dangerous, it is said, to tell the people of England that they are not duly represented. And is this indeed a secret? Are the people of England in such a state of infancy, as not to know that they do not elect those representatives for whom they do not vote? No;—but if ever it was a secret to them, it has long since been divulged; it was proclaimed to them in a loud voice in the Middlesex election; when a minority was voted to be a majority; a determination so iniquitous as to shake the fabric of parliament to its base. What was the consequence? The House of Commons, in a moment of repentance, erased the record of it, and stripped themselves for ever of their former judicial power in elections, in expiation and contrition for this abuse of it. Now what was this abuse? It was making a minority do in one county, what could only be constitutionally done by a majority; and the danger of it in example was, that it might be extended to other counties. But what is the abuse of which I complain, when I complain of the inadequacy of representation? It is, that a very small minority of the people do now act for the whole, in electing the entire representative of the nation. Now this is as much a greater abuse than the former, as the whole is greater than a small part; and as one was expunged by the parliament, the other ought to be expunged by the people.

Again, this secret of inadequate representation was told to the people in thunder in the American war; which began with virtual representation, and ended in dismemberment. To the inadequacy of representation I charge that war. Profuse counsels attendant on unconstitutional majorities had left upon you a debt, which induced the minister to look to America for taxes. There the war began; the instinctive selfishness of mankind made the people and parliament wish that others should be taxed rather than themselves. At first, and until America resisted, I agree that this wish was common to the parliament and people; but when America resisted, and the measure came to deliberate judgment, the people were the first to recover their senses; whilst the minister, with his majority went on to ruin. I say that the inadequacy of representation, as it was the cause, so it was the only argument that was attempted in justification of that war. When the American exclaimed that he was not represented in the British House of Commons, because he was not an elector, he was told, that a very small part of the people of England were electors; and that he was therefore in the same state in which an infinite majority of the people of England were placed. As they could not call this actual, they invented a new name for it, and called it virtual representation; and gravely concluded that America was represented. The argument, no doubt, was fallacious; it was perfectly sufficient, however, to impose on multitudes, in a nation wishing that others should be taxed rather than themselves; and who were in the habit of thinking that the Americans being an inferior species of beings, ought to be contented with their situation, though they did not partake at all in the elective capacity. The influence of corruption within doors, and of this fraud of argument without, continued the American war. It terminated in separation, as it began in this empty vision of a virtual representation; and in its passage from one of these points to the other, it swept away part of the glory, and more of the territory of Great Britain, with the loss of forty thousand lives, and one hundred millions of treasure. Virtual parliaments, and an inadequate representation, have cost you enough abroad already; take care they do not cost you more at home, by costing you your constitution.

But the people of England have not only read this secret in the dead and decisive letter of events, but they have im-

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bibed it from the living oracles of their ablest statesmen. When the city of London, the greatest and freest metropolis of the world, applied to lord Chatham to assist them in shortening the duration of parliaments, what was the answer of that great minister? It was this, that shortening the duration of parliaments alone would not be sufficient; that alone might do hurt; that the representation itself must be amended; and his proposition was, to infuse a fresh portion of vigour into the representative body, by an addition of county representatives, leaving the rotten boroughs to drop off by time. The authority of the son, both when a minister, and when not a minister, has been added to that of the father. The authority of many other of the most eminent men might be cited in addition, indeed of all, except those who are wise enough to startle at restoring, as if it were innovating, the constitution; and who grow enamoured of abuses, provided they are old.

I now come to a remedy for these abuses. But first, I will remind you of the objections that have been made to the former propositions upon this subject; because it is the shortest method of showing that my proposition is free from them. It was not objected to lord Chatham's plan, that it would make a considerable increase to the present number of representatives. But it was objected, that the freeholders were already represented—that this plan did not give franchise to any of that great and responsible body of men who are now non-electors—that, on the contrary, it increased the disparity between them and the freeholders. It was farther objected, that this might happen, that as so many more of the great interests in each county might be accommodated by this greater number of seats which were to be disposed of by the same number of freeholders, those greater interests might more probably combine—that the independent freeholders might become less significant, and county elections thereby become less influenced, and less constitutional than at present. To the plan of the chancellor of the exchequer it was not objected, that he introduced a new body of electors, namely, the copyholders. It was admitted, that by adding them to the freeholders, he had diminished, for so much, the objections that had been made to his father's plan; but that except for so much, the same objections remained as to that part of the subject. Touching his plan, as to the boroughs, it was objected, that to disfranchise them might, indeed, be arbitrary; but that to buy them out would be to build reform, not on the purity, but corruption of franchise—that the purchase might never be effected—that certainly it must be slow; and that the worst boroughs, those of the government, would never resign, but would be comparatively increased in their importance by the resignation of others—that the reform was to wait for the result of all these contingencies; and at all events, that it was not to begin till the expiration of the parliament, which had but just commenced; during all which time it would lie open to be repealed, before it began to operate.

My proposition is free from all these objections; for it is, that one hundred members should be added, and that they should be elected by a numerous and a new body of responsible electors; namely, the resident householders in every county—resident, I say, because the principal of the constitution is so strongly in favour of residence, that it ordained that no non-resident could be an elector; and with reason; first, because residents must be best acquainted with every local circumstance; and next, because they can attend at every place of election, with the least inconvenience and expense to themselves or to the candidate. Householders, I say, because being masters, or fathers of families, they must be sufficiently responsible to be entiled to franchise. There is no country in the world in which the householders of it are considered as the rabble—no country can be said to be free, where they are not allowed to be efficient citizens; they are, exclusive of the rabble, the great mass of the people; they are the natural guards of popular liberty in the first stages of it—without them it cannot be retained; as long as they have this constitutional influence, and till they become generally corrupt, popular liberty cannot be taken away. Whenever they do become generally corrupt, it cannot be retained; neither will it be long possessed, if they have not this constitutional influence; for the liberty of a nation, like the honour of individuals, can never be safe but in their own custody. The householders of this country have a better right to consideration and franchise, than those of any other country, because they pay more for it. It is admitted, that every in-

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dividual of this country, one with another, pays fifty shillings a year to the revenue in tax. The master or father of a family must contribute, in proportion, for himself, and for each individual of his family, even to the child that is hanging to the breast. Who shall say, that this class of men ought to be confounded with the rabble? Who shall dare to say, that they ought to be proscribed from franchise? They maintain the affluence of the rich, the dignity of the noble, the majesty of the Crown; they support your fleets and your armies. And who shall say, that they shall not have this right to protect their liberty?

I have stated the inadequacy of the representative body, compared with the constituent body, even as it now stands. I have stated the inadequacy of the constituent body itself, as it now is, compared with what it ought to be. I shall now state the effect of this double inadequacy upon the balance of the constitution. The constitution consists of three orders, one monarchical, one aristocratic, and one popular; the balance consists in maintaining the equipoise between them. This balance was lost in the first part of the Norman æra; it was recovered in some degree after: it was impaired again in the period of the Tudors and Stuarts; at the revolution it is supposed to have been again recovered. Let us see whether it has not been impaired since. The Lords have been the most stationary part; yet, by a great increase of their numbers of late, the upper House has obtained a great many patrimonial and private boroughs; thereby obtaining an influence over the House of Commons, which does not constitutionally belong to them. But the great alteration has happened on the part of the Crown. And here, for brevity, I will appeal to the authority of a great judge that is no more. Mr. justice Blackstone has stated all the cautionary provisions that have been made to guard against prerogative; he has then enumerated the various sources of influence which have accrued to the Crown in place of those prerogatives; and the conclusion of such a man, a lawyer, looking to be a judge, of principles sufficiently monarchical, writing in his closet, and appealing to the cool justice of the latest posterity, is —what? That influence has gone so far beyond prerogative, that, at the moment he wrote, the liberty of England was rather to be found in the virtue of the prince, than in the strength of the constitution. And what remedy does he intimate? An amendment in the representation of parliament. Mr. Hume, a prerogative writer, taking the same view of the subject, has said, that the euthanasia of the British constitution must be arbitrary power. What did the House of Commons say in their memorable resolution? That the influence of the Crown had increased, was increasing, and ought to be diminished. Does any man doubt this authority? Were they not witnesses of the fact, as well as judges of the proposition? But it does not rest on their authority; an act of the whole legislature has since confirmed their words—they have been made statute by the act of reform that passed afterwards. But what has happened since? An East India bill has passed, and a declaratory law. And what is the consequence? That no man who has any modesty, or who ever expects to be credited, will deny, that by those laws more influence has been conveyed to the Crown, or the minister, than was subtracted by that act of reform. The little influence of the whole people on the representative body is thus noticed by Sherlock, a bishop. In his treatise on the test and corporation laws, he says, "That though the dissenters were but a twentieth part of the people, yet if they got into corporations, the petty boroughs being so numerous, they might by them obtain a majority in the House of Commons against the whole nation." In a word, it is undeniable that a great majority of the House of Commons are under another influence than that of the people. It is nonsense to call this a representation of the people: the balance of the constitution is therefore gone; it must be restored, or the constitution will be undone. The only thing to be decided is, how it may be restored? It may be restored by opening all the boroughs, so as to make them places of popular and constitutional election. But will private interest hear of that? No. What follows? That there is but one mode left for restoring the balance, and that is, by an additional body of constitutional representatives, chosen by an additional body of constitutional electors. Either, then, this must be done, or the evil must continue: nor will that be all; for, according to the nature of the evil, it will propagate itself till it overwhelms what remains of your constitution. Is the addition of members objected to? It was not object-

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ed to lord Chatham. It was not argued that the integrity or wisdom of parliament was confined to the number of 558. No: it was felt that this House is never tumultuary, but when it ceases to be a public, by becoming a party assembly. It was therefore felt, that as by the superaddition of such members, this House would become more a public, and less a party assembly, it would, by course, become less tumultuary, and rise in dignity and order. But if this be a serious objection, remove it; there are a hundred boroughs that might be limited to the return of one representative instead of two. I do not propose it; but I desire that you will either propose it, or not object this addition to me. In a word, the people have lost their constitutional influence in the legislature. Instead of having the whole, they are far from having a majority in their own representative; the majority is against them; and the majority decides for the whole. The House is a second rate aristocracy, instead of a popular representation; the pillar of the constitution is undermined; it is nonsense to say that every thing is well, when every thing is in danger; every country in Europe was once as free as England; in every country in Europe it was said that every thing was well, till they found that every thing was otherwise; they went to bed saying they were free, and they awakened bondmen.

Let us not flatter ourselves that there is a destiny peculiar to England: she has lost her liberty more than once; it is our business to take care that she shall never lose it again. Machiavel says wisely, that no free government can last, that is not often brought back to its first principles—and why? Because the excellence of a free government is, to control the evil passions and practices of rulers. What is the consequence? Those passions and practices are at perpetual war with such a constitution; they make a constant effort to undermine or evade this barrier which is opposed to them. What is pepetualiy assailed, must be perpetually defended—what is incessantly sapped, must be incessantly repaired. It is nonsense to say that the English constitution, because it was once the best in the world, can never want reformation. A bad government cannot easily become worse; it therefore may not want, and certainly does not deserve reparation. A good government does easily become worse; it is with difficulty it can be preserved even by vigilance; and of all things in the world it best deserves to be repaired. The proposition which I make to you is practicable; that cannot be denied; it cannot be denied to be efficient; it will add a body of responsible constituents, of such number that a majority of the people may have the exercise of franchise; thus it cures the defect of the constituent body; and on the representative body it will have this good effect, that there will be no longer a decided majority in the House of Commons, under another choice and another influence, than that of the people; it leaves every county, city, town, borough, manor, &c. as it finds them; it molests none of the private proprietors of that which ought not to be private. And what does it ask of them in return? Nothing, but that they will suffer the constitution to be indemnified; and the influence of the people to re-enter the representation. To carry all this into execution would require but one short provision; namely, that the sheriff of each county be required, by himself, and his deputies, to take the poll of the resident householders of his county, in each parish on the same day: thus this great remedy to the constitution may be obtained in one day, with less tumult and expense than attends upon the election of of a diminutive borough; thus the representative will be chosen, as he ought to be by the people; and by shortening the duration of parliaments, he will continue to act as if he were so chosen.

Montesquieu has said, that a free people will pay more taxes with greater alacrity than a people that are not free; and he adds the reason, because they have a compensation in the rights they enjoy. The people of England pay fifteen millions and a half annually to the revenue. This purchase they pay for the constitution. Shall they not have the benefit of it? Every individual pays fifty shillings a-year. How many enjoyments must every inferior individual relinquish, and how much labour must he undergo, to enable him to make this contribution? No people ever deserved better of government than the people of this country, at this moment; they have not only submitted with alacrity to this enormous mass of taxation, but when the health or the rights of their sovereign were at stake, they gathered around the throne with unexampled zeal. Can such a people be denied their privileges? Can their privileges be a subject of indifference or re-

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misness to this House? I cannot believe it: and therefore I move, "That leave be given to bring in a bill to amend the representation of the people in parliament."

Mr. *Grigby* seconded the motion.

Mr. *Windham* addressed the Chair as follows:—Sir, It will be unnecessary for me to reply to the arguments of the right hon. gentleman very much in detail, since, as the question has been so often debated in this House, they are arguments which every gentleman who has heard them will be able to refute. But I cannot help observing, that there is a preliminary question which the right hon. gentleman seems wholly to have forgotten, and which ought to have been answered before his motion should even have been received by the House. I mean, that he has forgotten to show that any necessity exists for adopting his proposition; he has not proved enough to encourage us to go on with him a single step. He ought first to have made out his grievance, and then to have proposed his remedy. When the House is put in possession of both, it will be the time to judge how far the first is ascertained, and the second proportionate; and to decide whether the remedy ought to be adopted or not. But the right hon. gentleman has only asserted, that the representation is inadequate, without any attempt whatever to prove that fact. As a substitute for argument, he has contented himself with a triumphant appeal to the people; and this I have always observed to be the practice of those who have brought this question before the House. On my part, I am ready to resort to the same appeal, and to ask whether the House of Commons, constituted as it is, be not answerable to all the purposes that can be required of it; and whether the people do not live under it happy and free, and do not even enjoy all the luxuries of life which they can possibly desire. It is whimsical to say that a constitution, which has lasted so long, and which experience has taught us to value and revere, ought now to be departed from, in order that we may adopt theoretical and new-fangled schemes, such as are now proposed to us. Let us, in opposition to such assertions and doctrines, look to the blessings we are enjoying;—let us judge of the tree by its fruits, and apply to the British constitution a homely adage, which is not the less apposite for being coarse;—that "the proof of the pudding is in the eating." The experience of all ages has demonstrated, that this House is adequate to all that is necessary, and that with no better a system of representation, the country has been prosperous and flourishing, the people have been comfortable and safe. Every proposition of reformation or innovation is good or bad according to the circumstances of the case; and this is a case in which I cannot help thinking that we have every thing to lose and nothing to gain. The project comes before the House under the appearance of liberty, as all innovations do, which are likely to destroy that very liberty they profess to preserve. The liberty of this country requires no speculative security, nor can it be better secured than by the means by which it has so long continued.

Sir, the right hon. gentleman has quoted the case of the Middlesex election, and has laid great stress on the fact of the minority having in that case been allowed to triumph over the majority. The fact, indeed, was so, and were it so in other cases, were such even the general rule of election, and the affairs of the House were to go on as well as they have done, I should not be disposed to quarrel with such a rule, merely because I might be unable exactly to see how such a result could follow from it. I should content myself with the result itself; and to those who, like the right hon. gentleman, might be disposed to cavil with it, I would say, in the words of Hamlet,

"There are more things in heaven and earth, Horatio,
"Than are dreamt of in your philosophy."

As to the American war, the right hon. gentleman, in his reference to that subject, has come somewhat near to the point to which I wish to bring him;—I mean, to matter of fact. But I deny that the continuance of that war was owing to the inadequacy of the representation. On the contrary, it was the wish of the people that that war should be begun, nor was any strong indication of an opposite feeling manifested, till towards the conclusion of it. It is true, indeed, that a right hon. friend of mine (Mr. Fox) opposed the war, and that the electors of Westminster continued him, and very properly continued him, as their representative. But it is also true, that another right hon. friend of mine (Mr. Burke) acted the same wise and honourable part, and what was the consequence?

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Why, that he lost his seat for Bristol. He was expressly turned out, at a popular election, for opposing the continuance of the war, and had to resort for a seat to one of those boroughs which are now proposed to be disfranchised. Towards the close of the war, a loud clamour was raised for a reform of parliament, as a remedy for the evils, and losses, and expenses, to which the people had been exposed; though I am afraid that those very people originally engaged in the war with no better motive than that of saving their own pockets by taxing those of the Americans.

Sir, it was at the period of which I am now speaking, that a deluge of wild opinions was let loose upon us. The emancipation of America served to swell the flood. But I have been flattering myself that it had long since subsided. I hoped that the cry had been dead, but it turns out only to have slept. And truly sorry am I to observe, that swarms of these strange impracticable notions have lately been wafted over to us from the continent, to prey like locusts on the fairest flowers of our soil;—to destroy the boasted beauty and verdure of our constitution. It is in conformity with these notions that we are called upon to new-model our establishments, which have for ages withstood innovation. Yet the people at large, it is obvious, have no such wish. If they have, why do they not declare it? What is the political malady, what the grievance that is now complained of? What evil has overtaken us, in consequence of this inadequate representation of the people? Experience has proved that the British constitution contains somewhere and somehow within itself, a principle of self-recovery and self-preservation, which brings it back, amidst all the deviations to which it is exposed, to its natural and salutary state. *Quod petis hic est.* There is no occasion for an infusion of new blood, which, instead of being salutary, might prove fatal.

But, Sir, were I even disposed to approve of the right hon gentleman's notions of reform, I should still feel it my duty to object in the strongest manner to the time in which he has thought proper to bring them forward. What, would he recommend you to repair your house in the hurricane season? The right hon. gentleman, indeed, professes only to wish to open the door for a change, being perfectly indifferent himself as to what that change might be. Now a change may be good in the abstract, but merely for the sake of a change, I can never consent to pull down the fabric, and take the chance of building it up again. This, to use the language of play (though I am myself no gamester), would not be playing upon velvet, a little only might be gained, and every thing might be lost. As to a love of change generally, this passion is natural to all ages and countries; but men are not more fond of innovation, than they are apt to differ as to the particular schemes of reform that are to be carried into execution. It is not enough to say, that a majority of the people are friendly to reform in general, unless some particular mode of reformation be also agreed upon. But even were this the case, and were any scheme of parliamentary reform generally approved of, I should still think it my duty to oppose the dangerous and progressive spirit of innovation;—I must still enter my protest against the strange mixture of metaphysics with politics, which we are witnessing in the neighbouring country, where it would seem as if the ideal world were about to overrun the real. In that country speculatists and theorists are now *frontibus adversis pugnantia.* Let us, in good time, avoid the infection.

Sir, it is my firm opinion that there is no grievance existing in this country which we cannot correct, without calling in the advice of a theorist. While the people are enjoying the highest degree of freedom and felicity, why should we try to persuade them that they are all the time in misery and slavery? While we are feeling the blessings of peace and plenty, why should a thought come into our heads that we are unwell, and must have recourse to medicine? This is like the story in the Spectator, of a man in good health, who had read medical books till he fancied that he had every symptom of the gout upon him, except pain. Let me entreat the House not to fall into the state of this imaginary valetudinarian. Let us not fancy that our constitution stands in need of the specifics which are offered to us, trifling and harmless as they are represented to be. Once received, they may, like the puncture of a man's arm, bring on disorders that are dangerous to the whole body; and the constitution, now healthy and flourishing, may fall to cureless ruin.

Mr. *Pitt* declared, that as the hon.

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gentleman who spoke last had, with much ingenuity, and, in some points, with as much wisdom and argument as he had ever heard within the walls of that House, investigated the merits of the motion, he felt it needless to enter upon a series of long remarks. To the hon. gentleman's reasoning, in general, he fully subscribed; from his facts he could not help differing; but circumstanced as he was, and known to have been a friend to parliamentary reform (to which, after the most mature deliberation, he continued to be as firm and zealous a friend as ever), he could not consent to give a vote in silence. He begged leave to deny that his ideas of reforming the representation in parliament were founded upon wild theory and visionary speculation, On the contrary, he had only wished, by prevailing on that House to adopt certain practical principles of reform, consistent with the genius of the constitution, to remedy peculiar abuses, which, he was free to confess, they did not feel at that moment, but which they would feel under certain contingencies. He should dissemble his real sentiments, if he did not confess that he could see no utility in any gentleman's bringing forward such a motion as the present at this moment. The right hon. gentleman who made the motion had alluded to the particular objections which he had heard were the objections most relied on by those persons who opposed the propositions for a parliamentary reform, which he had, some sessions since, had the honour to propose; but the right hon. gentleman seemed to have lost sight of the principal objection in which the opposition had been succesful, though the times, and a variety of other circumstances were then more favourable for his propositions, than for any proposition of the same tendency at present—and that was the charge of innovation, and the argument of its danger: he thought that those who argued this charge were mistaken, and he continued to think they were, but they had succeeded. It was a knowledge of the impression that the argument against innovation had made, which rendered him desirous of waiting till some more favourable moment than the present should offer itself, when he most certainly should again submit his ideas upon the subject to the House; at present, unless the right hon. gentleman would consent to withdraw his motion, he should move an adjournment.

Mr. Pitt declared, that if he were forced to come to a specific vote upon the right hon. gentleman's plan for amending the constitution, he should be against it; and even if it were his own proposition, he should act in the same manner, feeling that the cause of reform might suffer disgrace, and lose ground from being brought forward at an improper moment. With regard to the right hon. gentleman's idea of letting all householders vote who paid fifty shillings, scot and lot, indiscriminately and without distinction, he could not easily imagine that it would answer any effectual purpose. He hoped, however that the right hon. gentleman, in candour, did not wish to press his motion on the House.

Sir *James Johnstone* contended that if the proposition were complied with, the act of union would be violated, and in that case the two countries must be placed in the same situation, in which they stood before the union, and then the difficulty would be to bring them together again. By the union, England was to have 413 members of that House, and Scotland 45. If the act of union were dissolved, probably that House would think eight members from Scotland enow, but the Scotch parliament might insist upon having 200 at least. The parliament had done extremely well for some years past; he hoped, therefore that the right hon. gentleman would suffer them to try the experiment of another century, and then, if it did not answer he would be glad to second his motion.

Mr. *Powys* said, that the House had hitherto rejected all motions of a similar nature, and he ardently hoped they would continue to reject them. He could not forbear applauding his hon. friend (Mr. Windham) on account of his wonderful reasoning, and he trusted when the motion should be rejected, that the right hon. gentleman, who introduced it would feel convinced that the House would always turn its back upon such schemes, and if in this æra of disinterested patriotism one of the members of the national assembly were to be sent over as a political missionary, in order kindly to advise them how to correct the inadequacy of their representation, and preach up the blessings of reform, they would turn a deaf ear to his doctrine.

Mr. Secretary *Grenville* declared, that under what circumstances, and at what-

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ever time any proposition of parliamentary reform was brought forward, he, for one, would resist it. The circumstances and times were such, as made not only the question dangerous, but the discussion of it dangerous likewise.

Mr. *Fox* declared, that he agreed with the right hon. gentleman, who was of opinion, that this was a question extremely important to the country; but it was, as his right hon. friend near him had said, a question, which he had considered as a sleeping question, for the present. Though he held the same opinion he used to hold upon the subject of reform, he thought it but fair to state that he believed that opinion was not the opinion of the majority either within or without doors. With regard to the question of the Middlesex election, he differed upon it from the right hon. gentleman who had made the motion. The right hon. gentleman thought that the representation ought always to depend on the majority; now he thought otherwise, and therefore the right hon. gentleman, according to his view of the case, was right in his opinion; and as he saw the matter in another point of view, he was in the right in his opinion likewise. It was rather extraordinary, that the House, for thirteen years, were in possession of a legal opinion of the judges upon the case of the Middlesex election, and yet, to that day, Mr. Fox said, he remained convinced that this House was in the right, and the people and the judges in the wrong. He declared he agreed with the hon. gentleman, that a difference in the representation in parliament would not have prevented the commencement of the American war, but that he thought that the war would have been ended some years sooner, and that some millions would have been saved to this country, had a reform taken place in time. Sure he was, that what happened in 1784 would never, in that case, have taken place. He had not the honour of a personal acquaintance with the right hon. mover of the question; but the observations he had made on France and what was going on there, did not deserve the sort of remarks which had fallen with so much ingenuity from his hon. friend (Mr Windham)—remarks which he could scarcely have thought could have fallen from a gentleman possessing the sense of his hon. friend. He agreed with the right hon. mover with regard to the affairs of France, and saw no reason, as some gentlemen did, why we ought on that account to be struck with a panic. He was one of those who, if the right hon. gentleman was inclined to withdraw his motion, wished him to do so: but he would state his objection to the motion, that it might not appear the same as that of the right hon. gentleman who spoke last. He thought the present state of France no objection to proceeding with the business of reform then, because he never could agree, that what was passing abroad, ought to have any influence on their proceedings, in respect to their internal and national concerns. His hon. friend had asked, Would any man repair his house in the hurricane season? He would be glad to know, what season was more proper to set about a repair in, than when a hurricane was near, and might possibly burst forth. With regard to the proposition, the right hon. gentleman had said it would admit of amendment, and he was indifferent how it was fashioned, so that the sum and substance of it were adopted. Was that any ground for conceiving that the right hon. gentleman was only anxious for a change, no matter what? That was a fresh proof of the truth of the right hon. gentleman's position, which no man could deny, that the representation in parliament was inadequate; and if it had been perfected, he was persuaded they should not have heard the right hon. gentleman sarcastically glanced at by another hon. friend of his, under the idea of a member of the national assembly of France coming here in the character of a political missionary, to preach the blessings of reform. Had the representation in that House been reformed, he was convinced that every member of it, no matter what his country was, would have been regarded only as one of the representatives of the people of Great Britain, and in that House, at least all would have been considered as upon a level, and each as invested with an equal right to come forward with whatever motion he thought proper. Mr. Fox owned that he thought the outline of the present proposition the best of all which he had yet heard suggested. If, therefore, the question was put, he would vote against the adjournment.

Colonel *Phipps* observed, that had the representation been reformed in 1784, and had more of the people become possessed of seats in that House, according

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to the right hon. gentleman's wishes, he was persuaded, from a knowledge of the opinion without doors upon the subject at that time, that the opinion in the House would have been just as adverse, because nothing could be more so, than the sentiments of the people without those walls. The colonel reprobated all innovations in the constitution as extremely dangerous, and as going back to the original evils and defects by which it formerly was degraded and disgraced.

Mr. *Wilberforce* declared, that he was one of those who had on all occasions, professed himself a friend to parliamentary reform; he was as much so as ever; but agreed with his right hon. friend, that this was not a favourable moment to agitate such a question, and he conceived that his right hon. friend had shown himself the friend of parliamentary reform, by treating the motion in the manner he had done, and therefore he would vote for the question of adjournment.

Mr. *Flood* rising a second time, said;—The hon. member (sir James Johnstone) has desired that I should postpone my motion for a century. Did I think that I should have an opportunity to move it at the end of a century, perhaps I might comply. The hon. member objects impracticability to my proposition, as if it were opposed by the articles of union. Undoubtedly, if Scotland were not to have her due proportion of additional members, the objection would be just; but I mean to give Scotland her share in this additional representation; for one, I would consent to her having a more liberal proportion than that which was assigned at the union. I admit that the united parliament cannot take from Scotland any of the advantages of the union; but no man has ever held, that they can add nothing to the benefits of it. And whilst I have the authority of lord Chatham, to show that the union cannot be a bar to an increase of the representation, and that of the chancellor of the exchequer, to show that it cannot obstruct a parliamentary reform, the hon. baronet must excuse me if I prefer their reasons in favour of a reform, to his prepossessions against it.—Whatever may be the fate of my proposition to-night, I am glad that I have moved it. The subject was considered as dead by the enemies of it; but the friends of it will now perceive, that it is alive; had we suffered it to continue during the whole of this parliament in that swoon into which it had fallen, the vital principle might have been so far extinguished, that the next parliament could never have restored it. I have given an opportunity to some of the most distinguished parts of the kingdom, to express their approbation of this proposition. I have given an opportunity to a right hon. member (Mr. Fox) to declare himself a friend to an amendment of the representation, in those clear and unequivocal terms which best become the manliness of his talents, and I consider myself as eminently fortunate that my plan has so far recommended itself to judgment of such authority, that he has not hesitated to say, that it is the best plan which has yet been suggested; and to add, that the introduction of the resident householders is well adapted to give representation to that mixed kind of property which is now become general in this kingdom. I am glad to acknowledge myself to be farther indebted to him for having answered the objection of a right hon. member (Mr. Windham) so as to leave me little to say beyond that acknowledgment. In a superior tone of argument he has proved to that gentleman (and by a friendly voice), the emptiness of his objections; and therefore whilst I admit with pleasure the urbanity and neatness of the right hon. gentleman's reply, and the wit and humour with which it was replete, I have only to reiterate that it was he and not I, that assumed every thing which it was requisite to prove, and that his speech, was like a fair vision that captivates the eye by an agreeable illusion, but that vanishes before the touch, and fades into annihilation. So far, indeed, was the right hon. member transported by his enthusiasm against a reform, as to say that if such determinations as that of the Middlesex election had been general, he would suppose them to be right; now, this is nothing less than to say, that right and wrong are but empty sounds, and that we are only to inquire what has been done—not whether it ought to have been done or no.—There are instances, however, in which wit and humour, and in which poignancy and elegance, are not to be complained of—but in which a certain bluntness bordering on coarseness, and even illiberality, may have attempted to usurp the ear. Who would have thought it? The ghost of French tumult has again been excited, to conjure down, if pos-

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sible, the dangerous spirit of reform, and a grave member of the British parliament, in the gravest of all possible harangues, has imaged to himself that a missionary from the national assembly of France has escaped into this House to make the present proposition. I am not a native of France; I am a citizen of the British empire; I am a member of this House; I appeal to you whether my conduct has been that of an alien or an adventurer; whether I have often trespassed on your attention; whether I ever did so but on an occasion of importance, and whether I then wearied you with ostentation or prolixity. I am as independent in fortune and in nature as the hon. member himself. I have no fear but that of doing wrong; nor can I have a hope on the subject, beyond that of doing some service before I die. The accident of my situation has not made me a partizan, and I never lamented that situation till now, that I feel myself as unprotected, as I fear the people of England will be found to be on this occasion.—An hon. member has said, that a reform is unnecessary, because, upon the last general election, the people were able to manifest their inclinations in favour of his friends. Be it so; I never said that there was no such thing as a popular election in the kingdom; but if, in the miserable destitution of popular election which now prevails, the inclinations of the public could show themselves at all, how much more would they have been manifested, had the representation been adequate? Would the hon. member be sorry that his friends were stronger than they are? If the position of the hon. member be true, he ought to be a friend to reform; if it be not true, he might have spared the observation.—But I am nothing more pleased that I have made this proposition, than that it has given to the chancellor of the exchequer an opportunity to express his persevering sentiment in favour of a reform, notwithstanding he has moved the question of adjournment. Had I seen that there could be a circumstance in the present moment, that could render the restoration of the constitution improper, I should never have proposed it; but I neither did nor can conceive such a possibility; the time I thought, for various reasons, the properest in the world, and for this amongst others—this would have been the time in which the chancellor of the exchequer's reform would have begun to operate, if his proposition had succeeded; and, therefore, I could not think it an improper time to find a substitute for it. But every thing, it is said, is well; this is true in a part, but beyond a part, it is not true. You are growing in prosperity, that is well; but you are 240 millions in debt; all the genius of administration has not pointed out any mode for the effectual liquidation of it; nor has any man pointed out the resources for another war. Who will say that is well? I do not despond, however; it is not my nature; and I have thought too often and too anxiously on the subject, not sometimes to flatter myself with a glimpse of such a possibility. But this I am bold to affirm, that the measures for that purpose must be so strong and systematical, as to require a stronger House of Commons than an inadequate representation can furnish. There is an influence that will always disturb every thing that is great, in pursuit of every thing that is little. This influence cannot live in a constitutional representation: such a representation, therefore, is the greatest of public blessings, and all public calamities are associated with the want of it.—The higher classes of every state are subject to be debauched by ambition, and the lower by necessity; the middle classes alone can be depended upon. These extremes of the state are apt to unite to overwhelm every thing between; it is the business, therefore, of wise statesmen to render the middle ranks so strong, as to be able to resist this union of the extremes. The constituent body is the political army of the state. An able general will make the center of his army strong, if he be in danger from the wings. On this principle, I introduce four hundred thousand responsible citizens from the middle ranks of the people, to fortify the constitution, and to render it impregnable. Such men cannot gain by convulsion; such men are too numerous to combine, and their position is a position of moderation, because it is a state of mediocrity.—But the chancellor of the exchequer wishes me to withdraw my motion, and I wish to comply with his request; but having satisfied my own mind as to the propriety both of the time and of the measure, and having been encouraged by the opinion of others, I feel that it does not become me to retract. It is not pertinacity, but an idea, whether erroneous or not of public decorum, that interposes to prevent it, and

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compels me to leave the fate of the question to the determination of the House.

Mr. *Burke*, after observing, that the right hon. gentleman was most undoubtedly justified, on every account, in bringing forward the proposition he had that day submitted to the consideration of the House, proceeded to notice some parts of his speech concerning France, and his appeal to the justice of men's feelings respecting his newly-intended electors especially. The right hon. gentleman had asked, who dared tell the middle ranks of life, that they ought not to enjoy that peculiar privilege, the exercise of the rights of electors? He would inform him; the laws of the country dared tell them so; the usage of their ancestors dared tell them so; the uniform practice of parliamentary election tells them so; and who shall dare to refuse to submit to such authorities? Mr. Burke next adverted to the American war, and denied that it would have been put an end to sooner, had the state of representation of the people in parliament been more perfect. In order to prove that in the ancient republics, and in such governments as were completely and purely popular, the people held the power entirely in their own hands, he cited the examples of Athens, Greece, and Rome, where each man represented himself. They were for ever involved in wars which were ruinous; sometimes to their adversaries, sometimes to themselves, and always to the cause of humanity. The American war, therefore, was no instance. It was originally the war of the people, and had been put a stop to, not by them, but by the virtue of a British House of Commons, who, without any petitions from the people, without their interference, and almost without their consent, had the magnanimity to take upon themselves to put an end to it. With regard to corruption, they certainly were corrupt; what body was free from corruption? It was inseparable from the nature of such an assembly; but it was evident, that no corruption that could be applied to them, was equal to a victory over the virtue of that House of Commons which put an end to the American war, and which House of Commons was afterwards foully calumniated and treacherously dissolved, by way of reward for its eminent services to the country. Mr. Burke compared the possible corruption practised within those walls with the deluge of corruption practised by the people themselves, and now about to be let loose without doors. He said, he would not sit still, and hear it asserted, that the present House of Commons did not represent the people. With regard to the cause of the American war, America had no representation whatever, not even a virtual one; or rather, she had the worst sort of virtual representation, the representation of men's passions, both in and out of parliament.

Mr. *Courtenay* observed, that from some sentiments he had heard, he could scarcely believe that he was in a British House of Commons, they were so contradictory to each other. He ridiculed all the terrors taken up by some members, because the nuns and friars were turned out of their convents in France together, to fulfil one of the most necessary, pleasing, and proper offices of nature; and by others, because Protestants being admitted into offices in France, without a test, it was said that a system of atheism was established. An hon. member (Mr. Powys) appeared most strangely to have mistaken a right hon. member of that House, because he happened to be a member of the Irish house of commons, for a member of the national assembly of France; as if the members of the national assembly had come over and inoculated the people of this country with democracy, and a rage of infection had spread the new French disease. If the right hon. gentleman had spoken an unintelligible language, there would have been something in that. Mr. Courtenay added, that he applauded Mr. Flood's proposition. Householders would feel more pride and attachment to the constitution, from being made electors, and the constitution would necessarily derive vigour from such a circumstance.

Mr. *Milnes* spoke in contradiction to Mr. Burke's assertion, that the people did not interfere to put an end to the American war. He knew that the county of York had interfered for that purpose strenuously three years before the war was put an end to, and all that description of members called county members, had voted for its termination.

Mr. *Burke* denied the fact, and re-asserted that the county members did not distinguish themselves by voting for putting an end to the American war. The late sir George Savile had assured him, that he had only one petition sent to him against the continuance of the war, and

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rejoiced that he had even that one to countenance their arguments.

Mr. *Milnes* said, that the anecdote of the petition presented by sir George Savile confirmed his former argument.

Mr. *Duncombe* said, he was not in parliament during the American war, but well remembered, that without doors the popular opinion ran in its favour at the commencement of it, and against it afterwards. He complimented Mr. Flood, and thanked him for his proposition, assuring him, that at a more proper period, he would vote in its favour.

The motion of adjournment was put and carried.

Debate on Mr. Sheridan's Motion for referring the Petitions against the Tobacco Excise Bill to a Committee.] March 8. Mr. *Sheridan* said, that having some reason to conclude that neither the minister, nor those who were connected with him in office, would oppose the motion he was about to make, he should not trouble the House with many remarks on the necessity of repealing the act of the last session, subjecting the manufacturers of tobacco and snuff to the excise laws; but would chiefly employ the few words he should use, in earnestly entreating gentlemen to pay attention to the subject, assuring them that it was of infinite importance, and the more it was inquired into, the more would it be found, that a matter more interesting to the first and dearest principles of the constitution, had scarcely ever called for the investigation of a British House of Commons. Every member must wish, that in a question where the revenue was materially concerned, the utmost candour should be preserved, and that nothing which bore the smallest appearance of party spirit should be suffered to prevail. In all cases of revenue, two or three instances excepted, the whole House, to a man, had joined cordially and earnestly in supporting the measures in agitation, and in endeavouring, as effectually as possible, to sustain the credit of the country. In the only cases in which opposition had been maintained, more good had been done than harm, as had been evident in the case of the fustian and the shop tax, and he trusted that the same consequence would follow the repeal of the tobacco act; for repealed it must be, if the House would fairly examine into its operation, and effects. It was unnecessary for him to dwell on the general inattention of that House to questions of revenue, and the absolute necessity of introducing bills of importance, early in the session, that there might be time for their full and complete discussion; or to point out the folly of reposing a blind confidence in ministers respecting matters of revenue. Had the tobacco bill been introduced early in the session, it was impossible it should ever have passed; but protracted as it had purposely been, to the end of the session, gentlemen had not had that opportunity of examining and considering a bill of such length and complicated variety, which ought to have been given, and which alone could prevent the disgrace which the House ultimately sustained, in being obliged, the very next session after it had passed, to revise, reconsider, and amend their own act. No man could pronounce him wrong in this observation, or say that he hazarded an opinion which was doubtful; since, in passing the tobacco act, the House had passed an act, that, by the greatest law authority of the kingdom, had been called a mass of contradictions and absurdities. He had the sanction of the first legal authority in the kingdom for declaring, that the bill was so ill drawn, that it was impossible to be understood, that it was full of clauses of an opposite and contradictory nature; that many of them were absolutely irreconcileable; and that the whole bill had been framed and put together by a man, who could write, but who could not read. The principle of the Bill led to the introduction of a general excise, and, therefore, on that ground alone, it ought to be repealed. He wished also, that, if it were possible, it could be viewed so as to be regarded solely as a matter of revenue, disconnected from the constitution. He knew that it was impossible in that House absolutely to disconnect the constitution and the revenue in all matters regarding the revenue; but still he wished that it might be looked on solely with a view to the revenue. The excise laws would then be found likely to cut up our resources by the roots, and to be the most fatal mode of collection in its effect, to which it was possible to resort. In the case of tobacco they were wholly inapplicable, and, in fact, he would lay it down as a principle, in the broadest and most unequivocal manner, that the extension of the excise system would be just as applicable to the cloth which we wore on

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our backs, the buckles in our shoes, and any and every other article of manufacture as to tobacco and snuff. He then moved, "That the several petitions which have been presented to this House, in this session of parliament, praying, that the act, passed in the last session of parliament, intituled, 'an act for repealing 'the duties on Tobacco and Snuff, and for 'granting new duties in lieu thereof,' may be repealed or altered, be referred to the consideration of a committee of the whole House, and that such of the petitioners as desire to be heard by counsel, be permitted to be heard, by their counsel, in support of their said petitions."

Mr. *Pitt* said, that far from entertaining a wish to oppose the motion, he rose merely to remark, that in deciding upon the effect of any measure of importance, general assertion was no test; the existence, extent, and measure of any grievance alleged, must depend upon the examination of witnesses and the weight of evidence; if, by the operation of a new law, calculated to promote and secure an increased revenue, it were true that the subjects suffered a grievance, it was certainly proper to go into it, and apply such an alleviation as, under all the circumstances of the case, it should appear expedient to grant; but if it should be found, that the grievance did not in reality exist, the beneficial effects of a revenue bill, of acknowledged importance, ought not to be suffered to be counteracted by either clamour or general assertion. The hon. gentleman had indirectly referred to an opinion respecting the merits of the tobacco bill, supposed to have been given by a person of great authority in another place. It would, he feared, be extremely difficult for him to combat the high authority alluded to in any place; but most certainly he would not attempt to combat it in that House, because it would prove extremely irregular and unparliamentary; yet as the hon. gentleman seemed inclined to shield himself under that authority, and to rely upon it implicitly, in the present case, he wished to ask, whether the hon. gentleman thought the great law authority in question decisive against that House in all cases whatsoever? With regard to the hon. gentleman's caution to the House against reposing a blind confidence in government, no such confidence was asked or expected. It was the duty of ministers to get all the information within their reach respecting any measure they proposed, and to submit it to the House; but it was equally the duty of parliament to collect information for itself, and to ground a proceeding, to which it gave its sanction, on that information alone. With regard to the late time at which the bill had been introduced last session, the circumstance had been unavoidable. Since the bill had passed, he had made it his object to inquire what the grievances were, which were said, without doors, to have been felt by the manufacturers, and others of the trade, but as yet he had been able to get no information of any. He hoped, therefore, when the day came to go into the committee, the hon. gentleman would be prepared to come forward with his witnesses, and establish what the grievances complained of were. He pressed this the more urgently, because he had met the gentlemen of the trade, and had a conversation with them on the subject, when, upon his desiring them to specify their grievances in writing, he had been answered, "that they were not prepared to state their grievances, since almost every manufacturer, carried his manufacture on in a different way, and they had not then heard from all." When the hon. gentleman gave notice of his motion, he wrote again to the gentleman with whom he had held a meeting, to press for the paper he had asked for; and he, at that moment, held in his hand a letter, in which they stated, that they were not prepared; nor had he, from that day to this, been able to get a syllable of information respecting the alleged grievances; but as others might have it in their power to get what he could not obtain, he hoped the hon. gentleman had proved more fortunate. He agreed, that all questions of that nature ought to be discussed without any mixture of party. He could not, however, but remark, that towards the close of the hon. gentleman's speech, he seemed rather to forget the caution which he had given the House, or he certainly would not have resorted to the words "general excise," which was an expression meaning something which never had been, nor ever could be defined. When gentlemen talked of a general excise, he wished they would be so good as to explain their meaning, for he really could not understand it. And as to the hon. gentleman's declaration, that broad cloth, or any other manufacture, was as fit a subject for the application of the system of excise laws, the

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proposition was too absurd to be seriously encountered. What analogy was there between broad cloth and tobacco?

Mr. *Sheridan* replied, that he should not go into any general arguments in answer to the tartness and asperity manifested by the right hon. gentleman, whom he was sorry to perceive so sore upon the subject, but however the right hon. gentleman might lose his temper, he was determined to keep his own, and adhere to the moderation with which he began. As to the general observation that he had made, respecting the consequence of bringing in great and important bills at the end of the session, and passing them in a hurry, it was a justifiable one, surely, since the first law authority in the kingdom had said, that the bill was unintelligible, and pronounced it a mass of contradictions, absurdity, and oppression. Had he wished to speak of bringing in the bill with any sort of severity, he might have charged the right hon. gentleman with having, in the course of the preceding session, informed the House that the bill was nearly ready, and then having the next year premeditatedly protracted it till the end of the session, when a sufficient number of gentlemen were not in town, or did not attend to give it the necessary examination. As to any analogy between broad cloth and tobacco, he had never dreamt of any, but had merely talked of the applicability of the excise laws to two opposite articles of manufacture. The right hon. gentleman had asserted, that he had sought the best information in his power, and that the manufacturers had engaged to send him an account of their grievances, but that they had failed to make good their word. Mr. Sheridan contradicted the assertion, and said, that luckily the matter did not rest on his evidence, but on that of a third party, the manufacturers themselves. He confessed he was not present at the meeting, but he spoke upon their authority. It was true, the right hon. gentleman saw them, and asked them to state their grievances specifically in writing; they told him that was a matter of information they could not afford to give him, but wished to give all the information in their power to the representatives of the people. There was nothing extraordinary in this; and yet, because they would not privately communicate their case to the right hon. gentleman, he had charged them with having declined the performance of a promise, which the manufacturers not only never made, but to which they expressly refused to accede. The petitioners had not attempted to excite clamour, but were ready to prove that they laboured under great oppression.

The motion was agreed to.

Debate in the Commons on Captain Williams's Petition relative to the Murder of Mustapha Cawn.] Major *Scott* said:—Mr. Speaker, I rise to offer a petition to the House from captain David Williams; but as it is of a nature new and unprecedented, the House, I imagine, will indulge me in stating, as shortly as possible, my reasons for thinking that it ought to be received. In the second year of that inquiry which was instituted in this House, previous to the impeachment of Mr. Hastings, it was resolved, that the 16th article of the charges delivered to the House by Mr. Burke contained matter of impeachment. This vote passed in a committee of the whole House, and in the House in the same day, the 14th of May, 1787. The charge so passed was next sent to the committee of secresy, consisting of the present managers and Mr. Francis, that they might frame an article, or articles, from the matter contained in the said charge. On the 23rd of May, the chairman of that committee presented thirteen articles drawn, as might naturally be supposed, from the matter specially delivered to them by the House. These were read a first time on the 23rd; read a second time and voted the 24th; and carried up to the Lords on the 28th. The article of which captain Williams complains, is the thirteenth, and which is the extraordinary part of the business; on referring to the original charge, from which this article should have been drawn, I do not find a word that can possibly affect captain Williams; that is to say, the House votes that they have read papers, and examined evidence upon matter contained in the sixteenth charge, that they had found matter in it to impeach Mr. Hastings upon; they refer it to a committee to frame that matter into an article or articles; and that committee presents to the House matter which is not in the charge; which the House never examined evidence upon, and which the House never heard of. Such is the real state of the case. It happened at the close of a session, when gentlemen had been very much fatigued by a long attendance upon

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the same business, and it might naturally be thought that the gentlemen who were to conduct the prosecution, would be the most proper persons to frame the articles. But this fact is clear, that the articles ought to have been framed from matter contained in the original charges; and that nothing should have been introduced upon which papers had not been read, nor evidence examined. These articles were printed by the House of Commons; they were afterwards printed in pamphlets, and circulated throughout the kingdom. I believe captain Williams did not lose a moment after he received the copy of them, to transmit to me a complete explanation of the heavy charge that was brought against him. Soon afterwards, he received a summons, by order of the managers, and came to town, where he naturally expected to be examined as a witness, because his situation during the time of Cheyt Sing's revolt and the insurrection in the Nabob's dominions, rendered him more competent perhaps than any man in England, except captain Gordon, to give material and important evidence. Nor was it, at that time, in the contemplation of the wisest man in Europe, that in this enlightened age, a criminal trial should last beyond one session. Captain Williams well knew, that though the managers who had expressly summoned him, were predetermined that he should not be called in evidence, the counsel for the defendant would. He, however, had the mortification to return to Wales, but with the hope of a full explanation in the next year. The next year, however, passed over, with very little progress made in a single article. At the commencement of this session he conceived, with the whole world, that whatever delays had hitherto happened, a sincere desire existed in all descriptions of men, to bring to a close this most extraordinary cause. No notice whatever had been taken out of doors of the article that particularly affected his character; it was lost or forgotten in the immense mass of matter that composes the whole impeachment. But, Sir, amidst the various discussions that have taken place out of doors on the subject of the present impeachment, it happened that in this winter a gentleman totally unconnected with Mr. Hastings, but more thoroughly versed in the languages and history of Hindostan than any man I ever knew, determined to write a short elucidation of the present impeachment. He published it in a series of letters in a daily paper. The letters were very much read, and admired. Some observations were made upon the first of these letters in another paper, and particularly a question was put to the author of the letters, if he was in possession of important knowledge, why did he not come forward, and give his evidence in Westminster-hall? To this he replied, that he had received a summons, and should be examined when Mr. Hastings came upon his defence. And he asked, very naturally, how it was possible that he could hitherto have been examined, as he had seen the pains the managers had taken to avoid calling captains Williams and Gordon? This brought a reply, in which it is stated, that the public would naturally feel a considerable degree of surprise, if the Commons had examined a man as a witness, whom, in their accusatorial capacity, they had thought fit to implicate in the charge of murder; and then the paragraph, from the 13th article, relative to captain Williams, is quoted in full length; nor is the deduction which the writer made, a strained or an unfair one. The House, I am sure, will feel for the situation in which capt. Williams was from that moment placed. He could not possibly remain longer silent. He was in possession of the fullest evidence for his own exculpation, and how could he lose a moment in bringing it forward. The same day that the charge against him was published, I replied to it in his behalf. I knew the House, collectively, was utterly ignorant that a charge of murder had been brought against him; but he viewed the subject in a different light. The words quoted appeared to the whole world as the words of the House of Commons, in the name of themselves, and of all the people of Great Britain. But he trusted to the honour and the justice of the House, that they would, upon his humble petition, institute a full inquiry into the grounds of the charge; and if it was found to be utterly void of foundation, that he would receive redress from them.—I have in my hands the original orders transmitted by colonel Hannay and his secretary, for carrying into execution the nabob's sentence upon Mustapha Cawn; and I can prove the hand-writing of both: I can prove also, by undoubted evidence, that so far from being, as the article sets forth, a man of great rank and

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consequence, he was not a native of Baharitch, but a robber and an outlaw, who had subsisted for years by plunder, at the head of a banditti, which had infested that country to such a degree, that so far back as the year 1775, Mr. Bristow describes it to have been, even in the time of Sujah Dowlah, in such a state, that it could scarcely be said to make a part of the nabob's dominions. A price had been set upon the head of Mustapha Cawn many years before he was taken; he was once seized in the life-time of Sujah Dowlah, and closely confined in the city of Fyzabad, Sujah Dowlah being then absent; but by persuading his guard to desert with him, he made his escape. He lived from that period until the latter end of 1780, by murder, robbery, and plunder. I have read, with great attention every paper that has been presented to the House on the subject of Oude, but I cannot find the slightest grounds for the assertions that are made concerning this man in the thirteenth article. His name is not even mentioned any where, except in the deposition of Alhad Sing. Capt. Williams and other gentlemen were examined at the bar of the House, but not one question was put to any one of them relative to Mustapha Cawn. I have been long and intimately acquainted with capt. Williams. There was no gentleman upon our establishment in higher estimation as a soldier. He had the honour, while abroad, of receiving repeated marks of the approbation of government, and of his commanding officers. And so far was he from being of a ferocious and bloody disposition, that when on command in the borders of Bootan, he received public thanks for conciliating the natives of that country to the British government, by his moderation and humanity. Since his return to England, he has resided at the place of his birth upon a moderate but independent fortune, partly an inheritance, and has the honour to be in the commission of the peace for the county in which he resides. I am sure it is not the wish of the House to brand with infamy the character of a gentleman of this description, nor indeed of any subject of Great Britain; but that must inevitably be the case, should the present petition be rejected, which, however, it would be an insult to the House to suppose. *

Mr. *Francis* begged leave to go a little more at large into the business than such a petition might, on the first view of it, seem to demand. It was a case of a singular character and importance, deeply affecting the honour and reputation of an individual, and materially affecting the regularity necessary to be observed in the proceedings of the House. He never regretted the want of a ready delivery of his thoughts in addressing the House more than on the present occasion, which, in his opinion, deserved the application, and would justify the exertion, of the greatest eloquence and abilities in the House of Commons. He hoped, however, that he should be able to make it intelligible; and, if once the case was understood, he had no doubt of its fixing a deep impression on the mind of every man who heard him. He had no acquaintance with captain Williams, and very little previous knowledge of the transaction set forth in his petition. He now, indeed, recollected the fact; but, in truth, he had lost all remembrance of it in the mass and multitude of Indian crimes, with which his mind had been occupied in the interval. Captain Williams himself had voluntarily put him in possession of the subject, and made him master of the circumstances two days before, by sending him a printed copy of his petition enclosed in a letter, setting forth "that much of the future happiness and comfort of his life depended on the success of this petition." He knew not with what view this had been done. Perhaps the same attention had been paid to other members of the House. Men ought to consider the future happiness and comfort of their lives, as depending on the intrinsic merit or demerit of their actions, and not on the censure that others might pass upon them. In his opinion this unusual mode of circulating his petition, before it was presented to the House, could not be accounted for on any human principle, and could only be attributed to some secret dispensation, by which guilt becomes its own betrayer, and is often made the instrument of its own punishment. It was his purpose on this occasion to say things strong, severe, and personal; and if he should be thought to exceed the bounds of moderation, he desired it might not be imputed to a hasty impa-

* The following is a Copy of Captain Williams's Petition, and of the Circular Letter, sent by him to the Members of the House of Commons:

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tience of temper, to which he was supposed to be more subject than other men; for he said them coolly and deliberately, and after having maturely reflected on their cause and on their consequences. It had been said, that he was a man so implacable in his enmities, that he had renounced the opportunity of amassing such an enormous fortune as many others had done in India, and which he might have done by a coalition with Mr Hastings; that he had renounced the prospect of succeeding to the government of Bengal, which he might have insured by the

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To the Honourable the Commons of Great Britain in Parliament assembled. The humble Petition of David Williams, Esq. Captain in the service of the East-India Company, on the Bengal Establishment,

Sheweth; That your petitioner was in the service of the East-India Company from the year 1769 to the present time. That in the year 1781, he was appointed to the command of a battalion in the service of the Nabob of Oude, under the immediate command of colonel Hannay, who then commanded a part of the said nabob's troops in the districts of Gorruckpore and Baharitch. That after the time of your petitioner being in the nabob's service, there broke out various insurrections in the said districts and other adjacent thereto. That your petitioner did not take upon him the immediate command of the fort of Gorruckpore till the 20th of September, 1781. That on your petitioner taking the command, he was informed by Alhad Sing and Munawar Cawn, that a purwannah had been sent to the latter, ordering him to execute the sentence of the nabob on Mustapha Cawn, a notorious robber, who lived by plunder and depredation, and was then a prisoner in the charge of Alhad Sing, Jemidar; that owing to the purwannah for execution being directed by mistake to Munawar Cawn, who had no charge over the person of the prisoner, nor any authority whatever in Gorruckpore, instead of Alhad Sing, who at that time actually commanded the fort, the latter did not think it prudent to execute an order made out in the name of the former; and therefore the sentence of death remained unexecuted till your petitioner's arrival; that before your petitioner's arrival, and after his assuming the command of Gorruckpore, he received several letters from colonel Hannay, of which the underwritten are faithful copies and extracts: Dated Sept. 11, 1781. "If you deem there is even a risk of a rescue, let that murderous villain Mustapha Cawn be hanged." 12th. "Mustapha Cawn is so horrid a villain, and will do such infinite mischief, should he make his escape, that he should, without delay, suffer the punishment of his crimes, by being put to death; my reason for desiring this is, that it was the nabob's orders to me; and should the villain get away, it would be difficult to keep possession of Baharitch. He has often raised seven and ten thousand horse and foot." 13th. "Let Mustapha Cawn be put to death." The two following were written by colonel Hannay's secretary, and by his order: 14th. "Put Mustapha Cawn to death." 16th. "And it is also the colonel's orders that you put Mustapha Cawn to death."

And your humble petitioner further sheweth, that after having received these repeated orders from his immediate commanding officer, and being assured that the sentence for execution originated in the nabob, he did not conceive himself more justified in disobeying the order, than he would have been in disobeying the order of the general of an army, for inflicting on a prisoner the sentence of death passed on him by a court martial. That your petitioner has always understood that the nabob of Oude had the same discretionary powers of life and death vested in himself, as all independent princes must have, and usually do exercise over plunderers, robbers, and others, who infest their government. That your petitioner, from general report and common fame, as well as from the letters of colonel Hannay, understood that Mustapha Cawn had been a notorious robber in the nabob's dominions; and that a reward had been publicly offered for his head. That your petitioner understood further, that the said Mustapha Cawn had instigated the prisoners to rise on the garrison during the attack of Gorruckpore fort. That he was detected in conveying letters to his banditti at Nanparra, 800 of whom were in full march to rescue him at the time of execution, and who retreated when they heard of his death. And your petitioner further sheweth, that in his own opinion, as well as in that of all military men with whom he had conversed on the subject, had he delayed, under the pressure of the then circumstances, the execution of colonel Hannay's reiterated order for the death of Mustapha Cawn, he would have rendered himself responsible for all the ill consequences which might eventually have followed the disobedience of orders, and have undoubtedly merited, and perhaps have received, the sentence of death upon his own person. And your petitioner further sheweth, that being conscious of having done nothing more than his bare duty, with respect to the putting to death Mustapha Cawn, and that if he was in any degree culpable, it was rather for mistaken lenity in delaying the execution than for hastening it, he was extremely mortified at finding an allegation fixing criminality on himself, in the 13th article exhibited against Warren Hastings, esq. by the Commons of Great Britain, of which the following is an extract:

"And, on the 5th of September, 1781, all

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same means; that, instead of receiving a great salary, and enjoying a great situation in perfect quiet and personal repose, together with an ample share in the patronage of the government, he had passed six years of misery and bitterness in an unavailing opposition to Mr. Hastings; and that all this he was supposed to have done and suffered for the sake of gratifying an unaccountable malignity against a man, who, to his knowledge at least, had never done him an injury of any kind; for he disdained to give the name of injury to those mutual transient offences, which

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the Zemindars, great and small, and all the inhabitants of Gorruckpore, to the number of many thousands, and several others from the adjacent districts, being provoked at the cruel and unjust captivity of the said hostages, or other inhabitants, did raise a general insurrection, and did attack the fort of Gorruckpore, in which a native subaltern officer, under the said Hannay, called Alhad Sing, did command, in order to release the inhabitants imprisoned therein; and on pretence that during the said attack, a soldier had cried out, that the hostages or inhabitants aforesaid had began an attack upon him the said officer, although the said captives were unarmed, did give instant orders to put them all to the sword; which violent and barbarous order the said soldier did set himself to obey, and did actually strike off the heads of eighteen of the said captive inhabitants, and threw them over the walls of the fort, having also wounded several others. And a few days after a victory had been obtained over the people making the said insurrection as aforesaid, the said Hannay, instead of any inquiry into the necessity of the barbarous act aforesaid, committed by an officer under his command, or endeavouring, by lenient measures, to reconcile the persons whose friends had been slaughtered, he did, in cold blood, send a written order to Munawar Cawn, another officer, or other person under him, giving directions concerning a person of great rank, eminence, and consideration in the country, called the Rajah Mustapha Cawn, purporting that if the said Rajah Mustapha Cawn had been put to death, it was well, if not, to strike off his head, or words or directions to that effect; and the said Munawar Cawn, shocked at the said inhuman and wicked order, did decline obedience thereto, and did show the same to the very officer who before had committed the terrible slaughter aforesaid. Yet the said officer, who appears to have been of a savage and bloody disposition, did however recoil from the execution of the said order, and declared that he would write to the colonel (meaning the said Hannay) on the subject, as the order was not expressly directed to him. And the said order did remain without execution till the arrival of captain David Williams at Gorruckpore, when the said David Williams or some other English officer, did, in execution of the said bloody and arbitrary order, without any form or process, and in cold blood, direct, and cause to be put to death the said Rajah Mustapha Cawn. And the said cruel and atrocious murder, &c."

And your petitioner further sheweth, that the wording of the above clause or item, particularly that part which says, "that the said David Williams, or some other English officer, did, without any form or process, and in cold blood, cause to be put to death the said Mustapha Cawn, and the said cruel and atrocious murder, &c." has led the readers of the said article into a belief that your petitioner stands charged by the honourable the Commons of Great Britain with the heinous crime of murder. And your humble petitioner further sheweth, that being soon after summoned by the managers of the prosecution against Warren Hastings, esq. to give evidence in Westminster-hall, he intended to avail himself of that opportunity to wipe from his own character the stain it had received from the aforesaid item or allegation; that after having attended in town for many months, without being called, your petitioner returned into Wales with great uneasiness on his mind, and no other consolation than what arose from the hope of being hereafter called on the part of the defendant, Warren Hastings, esq. That your petitioner has of late observed, with infinite sorrow and affliction, several publications in a daily paper, called the Gazetteer, reflecting on his character, and holding him out to the world as a murderer, and as a person of infamous character, whose oath ought not to be taken; which said publications quote the declared opinions of the Commons of Great Britain, as expressed in the article before alluded to, as the foundation of the assertions they contain. And your petitioner further sheweth, that the publications already mentioned made their way into Wales, the place of his usual residence, to the great injury of his credit and reputation. That your petitioner finds himself in the most embarrassing and miserable of all situations, being pronounced by the House of Commons, without a trial, or without having been heard in his own defence, a man of the most savage and cruel disposition, as one who had less feeling than the most cruel of the natives, nay, as a murderer.

And your petitioner humbly sheweth, that he is put in a much worse situation than Warren Hastings, esq. who is the principal object of the prosecution, and who, though accused, is not condemned, and has the means of answering the charges exhibited against him; whilst your petitioner, without being accused, and without a hearing is declared a man of the most abandoned character, and murderer. And your petitioner

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happen in the heat of a contest, which most men forget or forgive as soon as they are over, and which the most vindictive mind seldom remembered or resented very long. Be it so. He was going to take a strong part now; and whatever enmity might be imputed to him against Mr. Hastings, he could not be supposed an enemy to captain Williams, whom he never saw. In reality he never felt nor could feel enmity towards him. He felt only that indignation which every honest man felt against guilt—against guilt apparent and palpable from his own statement of his own case.

After an exordium to this effect, Mr. Francis said, he should consider the petition first as it concerned the rules and regularity necessary to be observed in the proceedings of the House, and next on its own proper merits. He would first state the reasons on one side, why such a petition ought not to be received. It was unworthy of the dignity of the House to suffer a great national prosecution to be embarrassed, or the attention of those to whose management they had committed it, to be diverted from its proper object by calling upon them to defend themselves, directly or indirectly, against the allegations contained in the petition. A similar attempt had been already made: and they could not countenance a second without incurring a suspicion that they meant to prevaricate; that they had ordered a prosecution, and meant to desert the persons whom they had appointed to conduct it. He trusted the managers of that prosecution would take no part, as a body, in that day's debate; more especially his right hon. friend, the chairman of the committee of managers (Mr. Burke), whom he rejoiced not to see in his place. Tricks and stratagems of this kind would be perpetually tried, for the purpose of embarrassing and retarding the impeachment, or at least of teizing and harassing the gentlemen employed in the conduct of it, if the House did not explicitly show that they were firmly determined not to countenance such insidious attempts. Even if

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sheweth, that the difference in the case of Warren Hastings, esq. and himself is, that in the former the facts are at issue, and not understood by the world as proved and established, but as accusatory and refutable; whilst in the case of your petitioner, the facts are assumed as certain, and spoken of in terms as strong and indubitable as could have been adopted after trial and conviction. And your petitioner further sheweth, that he has consulted professional men with respect to the prosecuting the printer and publisher of the Gazetteer, who are of opinion no action can be maintained, as the aspersions complained of are sanctified by one branch of the legislature. That being thus deprived of the legal means of redress attainable by one of his majesty's subjects, who finds himself injured in his fortune or reputation by ill report, your petitioner has no remedy but in the justice of your honourable House. And your petitioner further sheweth, that being impressed with the most perfect reliance on the clemency and justice of the honourable House of Commons, he lost not a moment in making the necessary application, but left his place of residence in Wales, and hastened to town, for that sole and express purpose, to his great inconveniency, trouble, and expense.

That your petitioner does not wish to avoid investigation into his conduct; on the contrary, he seeks and implores it. And your petitioner most humbly prayeth, that the honourable the House of Commons will be pleased to take the hardship of his case into consideration, and grant him redress, by ordering an inquiry into his conduct, or by any such other means, as in their wisdom may be thought meet; and your petitioner is the more earnest in thus imploring the justice of the honourable House of Commons, from an apprehension he entertains, that the article already quoted may not come on for hearing during the sitting of a septennial parliament, which already approaches to its dissolution, and thereby deprive him of an opportunity to make any public explanation or refutation of what is pronounced upon him; neither is your petitioner certain that the forms of law and evidence will ever admit of his publicly explaining his conduct to the high tribunal in Westminster-hall, and to the world at large. In this miserable situation, your petitioner can only fly to the mercy and justice of the honourable the House of Commons, from everlasting reproach and infamy to himself and family. And your petitioner shall ever pray.

The Circular Letter.

Sir; I hope you will excuse the liberty I take, in transmitting you a copy of a Petition, which a friend of mine, a member of the House of Commons, will move for leave to present to the House on Monday next. As upon the event and success of this petition, much of my future happiness and comfort in this life depends, I trust that the soliciting your most serious consideration, and interest also, if you think the case deserves it, will not be thought presumptuous or impertinent in Your, &c.

Queen Square, D. Williams.
March 3, 1790.

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it were possible for the House to be capable of such base prevarication, as to wish to thwart and retard their own prosecution, it was utterly unnecessary and superfluous for them to load themselves, by any act of their own, with so scandalous and dishonourable a desertion of their character and duty. They need only look abroad to see how effectually that sort of service was already done, and doing to their hand, in another quarter. On these general principles, the present and all other petitions, calculated merely to throw difficulties and delays in the way of the impeachment, ought to be rejected. But setting aside these general considerations, the petitioner had not made out a case fit and sufficient, in any circumstances, to justify the House in receiving the petition, and yielding to the prayer of it, on any ground of favour or protection due to him. He alleges, that in the 13th article it had been averred by the House of Commons, "That he, David Williams or some other English officer, did, in September, 1781, without any form or process, and in cold blood, direct and cause Rajah Mustapha Cawn, a person of great rank, eminence, and consideration in the country, to be put to death, and that the House had qualified that act by calling it a cruel and atrocious murder."

The House would observe that this allegation was not stated in the impeachment for the direct purpose of criminating Williams, but to show how horribly the country was treated by persons appointed and supported by Hastings, and to make him answerable for the consequences of his own evil government: that the averment in the impeachment was not the first notice which Williams had received, of the fact being known to the House of Commons. That it was brought into their view by one of the reports made, seven years ago, by the select committee,* who received their information from the deposition of a native officer, taken before, and authenticated by a chief justice, by sir Elijah Impey, and transmitted home to the court of directors by Mr. Hastings, annexed to a narrative of his proceedings against the rajah of Benares. That of this fact, so established, and so averred by the House of Commons, Mr. Williams had never taken the smallest notice "until he had of late observed several publications, in a daily paper, called the Gazetteer, reflecting on his character, and holding him out to the world as a murderer, &c."—so that as long as his character was vilified and impeached by no better authority than a deposition upon oath, by a report of the select committee, and by an allegation of the House of Commons at the bar of the House of Lords, he bore his fate with manly fortitude, and silent perseverance, for seven years together; but the moment this hitherto insignificant calumny had found its way into the Gazetteer, he could bear it no longer, his patience was worn out, and all his powers of endurance utterly exhausted; and here he comes post from Wales, at last, to vindicate his reputation.

Here Mr. Francis observed, that he had understood it to be the acknowledged character of the gentlemen of Wales, that they were naturally of a choleric, irascible temper, ready to resent an injury the moment it was offered, and by no means capable of commanding and suppressing their sense of an offence for any length of time; he said it to their honour; for real anger, though it might be violent, unjust, and dangerous, was certainly an indication of an open, honest character, as much as a pretended anger was, in its nature, base and contemptible; that capt. Williams was a Welchman of a singular description, a patient Welchman! who could bear any thing and every thing but a libel in a newspaper! But it seems "these publications had made their way into Wales, the place of his usual residence, to the great injury of his credit and reputation." Mr. Francis said, that indeed the Gazetteer was a morning paper, very much in request, and generally read in London and the neighbourhood, and perhaps in other principal cities, but he did not believe that it was in general circulation in Wales, or in any other distant parts of the country; but, at all events, he undertook to prove, if ever it should be necessary, because he had it from undoubted authority, that the newspapers in question had not reached capt. Williams by the ordinary channels of circulation, but had been particularly transmitted to him by a special act of friendship, out of pure love and kindness, and from the sole motive of a tender anxiety about his reputation. Now, could any man seriously think it probable, that a paragraph in a

* Vide Supplement to Second Report, Appendix, No. 1, 11, a.

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newspaper should have made a deeper impression on the mind of capt. Williams, than the charge of an atrocious murder preferred or exhibited against him by the House of Commons at the bar of the House of Lords? Or, if that were possible, let gentlemen reflect on what had past before their eyes within these few years, and consider what a powerful weapon a newspaper must be in the hand of any man, who was rich enough to pay for it, and desperate or wicked enough to regard no rules of truth or honour in the use he made of it. Capt. Williams says, he has "consulted professional men, who are of opinion no action could be maintained, as the aspersions complained of are sanctified by one branch of the legislature." This was a new and strange doctrine, and never yet heard of in that House, that any declaration made *obiter* by either House of Parliament, in the discharge of another duty, should have the effect of a *noli prosequi*, and bar any man of his appeal to a court of justice against a private libeller, who had no public duty to execute. He did not believe that any lawyer of character would maintain such an opinion. At all events, capt. Williams should have tried that question in the first instance, and not have resorted to the House of Commons, unless he could show that it was impossible for him to obtain redress or remedy elsewhere.

On these grounds, the petition ought to be rejected. The rules, the orders, the consistency, and even the honour of the House were against it, and the petitioner had made out no case, to entitle him to special indulgence. But the considerations due to the matter of the petition, did not end there: it did, indeed, in another, and a much more powerful point of view, demand the serious attention of the House. It furnished reasons on the face of it, which, in his opinion, bore down all the opposite arguments, and would in a manner compel the House to yield to the prayer of the petition, "by ordering an inquiry into the conduct of capt. Williams". That the House of Commons had originally averred that "a cruel and atrocious murder" had been perpetrated, with circumstances of great and enormous aggravation, by capt. Williams or some other English officer; that the personal guilt or crimination, which the House, from an abundant caution, and not at all for want of sufficient conviction, had left in some degree of suspense, capt. Williams had now voluntarily come forward to claim and appropriate exclusively to himself. He could not endure the idea of a doubt; his mind could not submit to a division of the guilt. The fact is true, and I am the man! The homicide being thus avowed, in the face of the House of Commons, they had nothing to consider but the principles on which it was justified, and what notice they should take of it. Capt. Williams first stated, that he was in the service of the nabob of Oude in 1781. This he had positively denied, in his examination at the bar of the House, as appeared by the following extract from the printed minutes, p. 244. "Did you hear that the begums intended to rebel against the saubah? I believe I have stated that they not only intended to rebel, but actually did so, by all the information I could obtain at that period. Did you transmit that information to the prince in whose service you was, and whose pay you received? I did not consider myself as in the service of any prince. I transmitted no accounts to the vizier; it was no business of mine so to do."

Thus was the first exculpatory assertion of the petition contradicted by his own express testimony. The petition next stated, that capt. Williams did not take the command of the fort of Gorruckpore till Sept 20th, from which it would appear that he took the command for the express purpose of executing the order for the death of Mustapha Cawn; for from the 11th to the 16th of the same month, five successive orders had been sent by col. Hannay to hasten the execution, and he quitted the command as soon as he had executed that single order. The petition said, this Mustapha Cawn was a notorious robber; but it was easy to run down men's characters, especially after their heads were cut off. Though thus stigmatised as a robber, col. Hannay, in his orders to put him to death, said he often raised 7 and 10,000 horse and foot. This accorded but ill with the ordinary ideas entertained of a robber. The truth was, that col. Hannay ("God forgive me," said Mr. Francis, "for having acquiesced in his appointment!"), by his extortions and multiplied oppressions, drove the people of the district to rebellion from despair; and, in one of their tumultuous insurrections, Mustapha Cawn, who was a man of rank and eminence among them, was taken prisoner, with 200

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more, and on pretence of a sudden alarm, the heads of eighteen of them were cut off, and thrown over the walls by Alhad Sing, who then commanded the fort. But on what pretence was Mustapha Cawn put to death? No alarm was pleaded in excuse for that. He was then a prisoner, from whom no danger could be apprehended; and orders had been sent for his execution, without even the form of a trial, or the presumption of a legal conviction. These orders were first sent to Alhad Sing; but he, who, on pretence of alarm, had beheaded eighteen prisoners without remorse, refused to execute Mustapha Cawn. What he refused to do, capt. Williams did. In justice to the officers of the Indian army, he felt it his duty to say, that such things were never done on such principles as the petition stated. No native was ever put to death without a trial, unless in the field, or with arms in his hands. They would feel themselves dishonoured by the imputation of such a practice. It was next alleged, that a purwannah had been sent to col. Hannay from the nabob. Had the fact been so, that would have been no authority to col. Hannay. Were that a legal warrant of execution, a purwannah for beheading an obnoxious native might be obtained at any time, by a British officer in command, from an enslaved nabob; and under such a sanction he might murder whom he pleased: but was the purwannah addressed to Williams? Let him prove it if it was. Did he even know that it had been sent to Hannay? Did he once demand to see it? No such thing. He supposed that it was, and he took common fame as a voucher for the fact. He was "assured," and he "understood," and such like. Nor would a purwannah addressed to Williams have been a sufficient warrant. He ought to have known that Mustapha Cawn could not be cut off, without an offence proved on a trial. Of what offence had he been accused? Of an attempt to escape. That, indeed, might be a reason for putting a prisoner into closer confinement, but never for putting him to death. Thus, without a purwannah, without any legal warrant, without a trial, and without any offence, except that of being a robber, which his destroyers imputed to him, but never proved, was Mustapha Cawn led to execution; and yet capt. Williams, who conducted him to death, complains of the hardship of being arraigned in his own character, without an opportunity of making his defence, of judgment being pronounced on it without a hearing. What were the orders he received? First, from col. Hannay himself.

Sept. 11, 1781. "If you deem there is even a risk of a rescue, let that murderous villain, Mustapha Cawn, be hanged." 12th. "Mustapha Cawn is so horrid a villain, and will do such infinite mischief, should he make his escape, that he should, without delay, suffer the punishment of his crimes, by being put to death; my reason for desiring this is, that it was the nabob's orders to me; and should the villain get away, it would be difficult to keep possession of Baharitch. He has often raised seven and ten thousand horse and foot." 13th. "Let Mustapha Cawn be put to death." Then follow two written by col. Hannay's secretary, and by his order: 14th. "Put Mustapha Cawn to death." 16th. "And it is also the colonel's orders that you put Mustapha Cawn to death." Such were the orders, and such the allegations on which capt. Williams had executed Mustapha Cawn, according to his own statement. Would not any man think the person infatuated, who should state such a case with a view to his justification? But he not only gave facts in his petition, but morals, and principles, and politics. "I always understood," says he, "that the nabob had the same discretionary powers of life and death vested in himself, as all independent princes must have, and usually do exercise over plunderers, robbers, and others, who infest their government." Who infest their government! Had Mustapha Cawn been met in the field, in the act of infesting the government, no doubt he might have there been put to death; but he was a prisoner, and that he had been a plunderer or a robber rested only on the assertion of col. Hannay, re-echoed by capt. Williams, and could not be legally proved but by a trial. He next pleaded his fear of being ordered to execution himself for disobedience of orders; that this was "the opinion of all military men" with whom he had conversed. Who are these military men? Let capt. Williams name them, and let the House judge of the weight of their authority, by their rank and character in the company's service. Was a British officer bound to obey illegal orders? Was this to be found in the articles of war? From all that he had learned from military men, he under-

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stood the direct contrary; that no officer is bound to yield obedience to unlawful orders, and that for such disobedience, a court-martial, the tribunal to which he is amenable, must instantly acquit him. He even claimed a merit from his great lenity in delaying the execution; from that mistaken lenity which induced him to delay the execution for a day or two, at the risk of disobedience to the pressing orders of his commanding officer. With what countenance, with what colour of reason or justice, could such a man come forward to complain, that he had been "pronounced by the House of Commons, without a trial, or without having been heard in his own defence, as one who had less feeling than one of the natives, nay as a murderer?" Was the man whom he had put to death, tried? was he convicted? where, when, by whom? Let him state it if he can. Is captain Williams in possession of the original sentence? He never saw it. Does he possess, or did he ever see an authentic copy of it? No such thing. "He heard, he understood, and he was assured," and that is all he knows about the matter. But, supposing a sentence, how came it to be his business to carry it into execution? By what authority did he act? Where is his warrant? He has none; he never had any. Yes, Sir, he has letters from col. Hannay—from colonel Hannay! "Dear Williams, let Mustapha Cawn be hanged. If you deem there is even the risk of a rescue, let that horrid villain be put to death." He has letters from a secretary too; "Put Mustapha Cawn to death, it is the colonel's order;" as if they were talking of the death of a dog, or of one of the most indifferent actions in private life. Can you see such actions brought before you, and refuse to take notice of them? Can you hear of such principles advanced and justified in the face of the House of Commons, without declaring your abhorrence of them? In my opinion, Sir, it is a business that touches the honour and duty of the House in its character of the grand inquest of the country; it touches the honour of the nation; it materially concerns the good government of our affairs in India, and may eventually shake or confirm the security of our possessions in that country. This petition cannot be dismissed, without very great and serious consequences. Even if the inquiry were to fail, or not to be prosecuted, he earnestly wished, that the petition might be received, that the facts might be recorded on their journals, and stand there for ever *in perpetuam rei memoriam*. He therefore should give his vote in favour of the motion. If the petition was received, it must, of necessity, be followed by an inquiry; the inquiry must produce a prosecution of capt. Williams; and, unless the ears of legal justice were obstinately shut against such evidence as the human mind could not resist, as no human creature could listen to without being convinced, the prosecution must end in a conviction for murder, for which the petitioner would infallibly suffer death.

The *Speaker* begged leave to remind the House, that he understood there was a resolution on their Journals, which had been made in the year 1646, declaring that no petition should be printed before it was presented to the House. He knew not how far the House would feel that there was any thing in the peculiar circumstances of the times when the resolution was made, which rendered it less worthy of being strictly adhered to, than a resolution passed at other and different times. That was a matter which he submitted entirely to the consideration of the House.

Mr. *Pitt* observed, that the House were certainly much indebted to the attention of the right hon. gentleman who spoke last, because it was highly necessary to adhere to regularity in their proceedings, and that there probably might be as much wisdom in a resolution made in 1646, as at any other period, though certainly it was a period marked with peculiar circumstances. He remembered that the resolution in question, went the length of giving the serjeant at arms authority, if he saw any printed petitions delivering to members before the petition itself had been presented to the House, to take them from the person delivering them, and to take the person into custody. The first impression on his mind, when he heard the petition opened, had been in favour of receiving it, notwithstanding the petitioner had been guilty of an irregularity in disregarding the standing order of 1646; and he had felt so, from the consideration that the petitioner had stated that his character lay under an heavy imputation, no less than a charge of murder, which had been made by that House, collaterally, in an article of impeachment against another person, and that he in-

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treated an inquiry into the fact of the imputation. The natural impression which this at first made on his mind, was to agree to enter upon the inquiry, because if the petitioner was innocent, he ought to be acquitted, and if guilty, he deserved the severest punishment. On consideration, however, of the circumstances of the case, he feared the House could not, with propriety, receive the petition without retarding the public prosecution, which, from unfortunate causes that had arisen, every body must lament had been so long retarded already. He owned he was a good deal struck with some observations made in the commencement of Mr. Francis's speech. Captain Williams had rested under the imputation for three years, without once complaining, and what was the reason he complained now? In his petition he alleged only two reasons; the first, because the gazetteer had thought proper to comment on the imputation alleged against the petitioner in the article of impeachment in question. Surely, if the House of Commons had found it necessary, incidentally and collaterally, to make such an imputation, as an indispensable part of their proceeding, the gazetteer was not called upon to take up the imputation and convert it into a libel. If the gazetteer had done so, the gazetteer could be proceeded against by law, without that House's interference, or without its being less likely that capt. Williams might be called upon as an evidence hereafter. Let the petitioner appeal to a jury, and see what they thought upon the publication in the gazetteer. The other reason was, "that the article quoted in the petition might not come on for hearing during the sitting of a septennial parliament." That reason existed in as full force three years ago, as it did at present, and as the petitioner had never before complained, he thought it too late for the House to make it a ground for receiving the present petition. In fact, they would be entangling themselves, and embarrassing the proceedings in Westminster-hall, which they ought studiously to avoid. Besides, if any member thought the crime so flagrant, and the perpetration of it so notorious, that there was ground for proceeding against the petitioner, he was not precluded from instituting a prosecution by the rejection of the petition.

The *Master of the Rolls* conceived that the time of presenting the petition would justify its rejection. It would be absurd for that House to carry on a second prosecution, growing out of a former, at the same time that the first was in process and unfinished. Besides, he would not believe, that any good authority could have informed the petitioner, that he had no legal remedy for what might possibly be considered as a malicious libel. He instanced the case of a witness, who could not be prosecuted for what he said in court, while giving his evidence upon a trial for a capital offence; and yet the same facts stated in print, and commented upon, would become a malicious libel, and be so held by every court of law in the kingdom. If a man were indicted for publishing or vending a most profane and obscene book, and another person, merely with a view to render the profaneness and obscenity matter of notoriety, were to publish the indictment, the publisher would be liable to prosecution for having done that, which without answering any one necessary end of justice, could only tend to vitiate the morals of the people. He would not therefore admit, that the petitioner had no legal remedy against the gazetteer; and he begged to be understood to rest his objection to receiving the petition, on these two grounds: first, the point of time at which the complaint alleged in the petition was made, and next, that the petitioner ought first to have had recourse to the laws of the land, before he applied to that House for relief. Had he tried the cause in Westminster-hall, and failed, he would have had some claim upon the House for their countenance and support.

The question was negatived without a division.

Government of Quebec.] Mr. *Fox* said, that last session, the House had voted, "that early in the present session, they would enter into the consideration of the sort of government fit for the province of Quebec." He wished, therefore, to know from the right hon. gentleman opposite, when he expected to be able to bring it forward.

Mr. Secretary *Grenville* lamented, that he had not been able to come forward with a subject of so much importance. He waited merely for an answer from lord Dorchester to certain dispatches, of the arrival of which he had, for some time, been in hourly expectation. As soon as

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they came to hand, he should be able to give notice of the specific day on which he meant to come forward with his proposition.

Mr. *Fox* hoped that the present instance would prove a warning to the right hon. gentleman in future, however rashly he might think proper to pledge himself, not to involve the House in the same rash pledge. The House stood pledged to their constituents to take the subject into consideration early in the present session, and now they were told that ministers waited for dispatches from Quebec.

Mr. *Grenville* denied that he had ever pledged the House in respect to the subject in question. He had not been in a situation responsible for the resolution when it had been voted; nor was the House at all committed by it. With regard to himself, he had not lost a moment in forwarding the object of that resolution; but, owing to an accident, the packet containing a plan of the intended system of government to be established in Quebec, submitted to the consideration of lord Dorchester, had been delayed a whole month in its conveyance to Canada; and thence it was, that lord Dorchester's answer and opinion had not reached England. Mr. Grenville added, that the matter did not rest with him solely; every individual member, as the right hon. gentleman well knew, might bring the subject forward whenever he pleased.

Mr. *Fox* said, that Quebec had now been 27 years without any established government. The session before the last, a promise was given on the part of government, that it should be brought forward in the next session. Last session, a resolution was entered on the Journals, that the House would, early in the present session, bring the subject forward; and now, on the 8th of March, the House were told they must wait for the arrival of a packet from lord Dorchester, which government ought to have taken care to obtain a year ago. The right hon. gentleman had pleaded, that he was not in office last year; but, if such a plea were admitted by the House, the province of Quebec might remain for 27 years longer without a settled government, because it was impossible to say what changes of place might not occur. He hoped, however, when the right hon. gentleman again put off the business, that he would afford time for other gentlemen to bring it forward, not on the eve of prorogation, or, for aught he knew, a dissolution of parliament.

Mr. *Pitt* observed that, in his opinion, the right hon. gentleman had taken up the subject with an unnecessary degree of violence. Certainly it was the duty of ministers, to propose to parliament a plan for the better government of Quebec. But it was also their duty to render that plan as perfect as the nature of the case would admit, before they submitted it to the consideration of the House; and they would surely have been subject to much just censure, if they had brought the plan forward, without the sanction of the governor of the province. That it had suffered nothing from the want of industry in his right hon. friend, he was persuaded every man who knew his right hon. friend, would readily believe.

Debate in the Commons on the Speaker's Allowance Bill.] March 10. Mr. *Frederick Montagu* having previously remarked that he had long considered the emoluments hitherto enjoyed by a Speaker of the House of Commons, as exceedingly inadequate to the maintenance of the dignity of such a station, contended that this great officer ought to be enabled to appear and live, wherever he was, and at all times, not only while he was in town, and pending the continuance of the session of parliament, but in the country, or wherever he might choose to go, during the recess, with the splendour and importance becoming, what he undoubtedly was, the first commoner in the kingdom. Upon an inquiry into the amount and nature of the profits of his place, he had been given to understand, that the Speaker's fees, *communibus annis*, might be computed, on an average of ten years, at the sum of 1,232*l*., and on an average of twelve years, at the sum of 1,266*l*., and that the allowance to the Speaker from the exchequer was about 1,680*l*., so that putting the two sums together, the emoluments of the Speaker did not amount to 3,000*l*., a sum by no means adequate to the dignity of the office, which he and every member of that House must wish to see properly sustained. He was aware, that the predecessors of the present Speaker had generally holden places under the Crown. Sir Spencer Compton, a very great character, who had been Speaker, had filled the office of paymaster of the army; and Mr. Onslow, a name never to

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be mentioned in that House but with reverence, had been treasurer of the navy. He did not like that the Speaker of that House should fall under the necessity of looking for the favour of the Crown, and, therefore, he wished the House itself to make an adequate provision for him. With regard to the fees arising out of the business of the House, he should propose that they might remain exactly as they were, because the House had as much business as they could conveniently transact at present; and if the fees were abolished, they would be overwhelmed with such a deluge of private bills, that it would be impossible to get through the whole of its business. With respect to the other part of the Speaker's emoluments, he should propose that so much might be added out of the sinking fund as would make up the whole 5,000*l.* a year at least, all of which it certainly behoved the honour and dignity of the House to secure. The preventing any occasion for the Speaker to expect a place from the Crown, might be considered as the price paid for the purchase of the Speaker's independence; and the public, he conceived, would cheerfully pay for a purchase, in which they had so great an interest. In his idea, no individual of that House ought to be chosen Speaker who had not some private patrimony, and the House ought to enable their Speaker to reserve that patrimony as a provision for his family.—Having explained what he meant to suggest, when the House should be in a committee, Mr. Montagu begged leave to address himself personally to the chair, and to assure the Speaker, that he had heard his manly address at the commencement of the session with great pleasure, and that he had witnessed, with infinite satisfaction, since he had held his high office, his strict impartiality, his great attention to business both public and private, and, above all, his care and attention to the forms of the House, and forms, he must be allowed to say, were the very essence of a popular assembly like the House of Commons. The general politeness and easy manners of the Speaker must necessarily endear him to every member, and, indeed, intitled him to be described, in the words of lord Clarendon, as "a person of flowing civility and affability to all kinds of men." Mr. Montagu, then moved, "That this House will, on Monday next, resolve itself into a committee of the whole House, to consider of an Allowance to be made to the Speaker of the House of Commons for the time being, more adequate to the dignity of the said office, and to the expense necessarily attending the same."

Mr. *Marsham* seconded the motion, he declared, that he concurred in every word his right hon. friend had said, as well with respect to the necessity and propriety of an adequate income for the Speaker, in order to enable him to support the splendour of his office, as in what he had remarked in praise of the present Speaker's behaviour since he had been promoted to that situation, of which he had discharged the duties, on every occasion, in a manner equally honourable to himself, and creditable to the House.

Mr. *Pitt* said, that he had it in command from his majesty to state, that his majesty recommended it to the House to make an adequate provision for their Speaker.

Mr. *Hussey* said, that to all the tributes of applause which had been paid to the right hon. gentleman who filled the chair, he most cordially assented. His whole behaviour undoubtedly entitled him to the praise and approbation of every member of that House. He wished also, that the emoluments of the office, while in the hands of the present Speaker, might be as full and ample as the very worthy gentleman who had moved and seconded the question appeared to desire. He must, nevertheless, dissent from the motion; and when he did so, he begged leave to assure the Speaker that he did not dissent from it from any motive of personal ill-will or disrespect. He vowed to heaven, that if the chair were at present filled by the nearest relation and dearest friend he had in the world, he would deprecate the motion, and should equally dissent from it; and he dissented on these grounds: the additional emoluments proposed to be voted (for he must necessarily look farther than the present motion, and not appear ignorant of what he understood, and the House had been given to understand it was intended to be followed up with), these additional emoluments must be paid out of the money raised by taxes on the people, and consequently would prove an additional burthen upon them. Besides, he was one of those, who, in a former parliament, had voted, that "the influence of the Crown had increased, was increasing, and ought to be diminished." Would it be said, that the in-

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fluence of the Crown was less now than at the time when the House voted that resolution? He believed not. The voting the Speaker additional emoluments, to be paid out of the public money, was not only laying a fresh burthen on the people, but an increase of the influence of the Crown, by giving the Crown another place to dispose of. He wished, therefore, to stop the business *in limine*. Gentlemen talked of the independence of the Speaker. Former Speakers had held offices under the Crown; and had there been any complaint of their want of independence? The present Speaker, he was persuaded, was a gentleman of too upright a mind, not to be independent equally with or without a place; but he could never think, that obliging the public to pay a large sum annually, would secure the independence of the chair. It was not from what was actually enjoyed, and in possession, that independence was to be looked for, but from what was in expectance; nor could he tell how the proposed increase of emoluments would answer the professed view of the mover and seconder unless they meant to go to the length of shutting the door against the possibility of future rewards, and precluding their Speaker at present, and those who might be his successors in that high office, from ever receiving the honour of a peerage at the hands of the Crown, which they all knew had often been the reward of continued labours in the chair, till the person who filled it was either worn out in the public service, or desired to retire from public life. He hoped, therefore, that the respectable character who now filled the chair, would not be the first Speaker to derive his emoluments out of the taxes paid by the people, but that he would be taken care of by the Crown, the source and fountain of honour and reward, to the favour and gracious consideration of which, other Speakers had been indebted for the necessary addition to their official emoluments.

Mr. *Marsham* declared himself astonished at the objection made to the motion. He did not understand what his hon. friend meant by an opposition *in limine*, unless his hon. friend thought the coming into the present proposition would establish a bad precedent, and that other officers of that House would expect to be provided for upon similar terms. There was no office in the country which could fairly be compared with that of the Speaker of that House; and therefore, if he were to understand his hon. friend to say, that the increase of the Speaker's income would be an increase of the influence of the Crown, there was something so monstrous in the proposition, taken in that point of view, that he could not imagine the House would feel it to be of any weight whatever. The Speaker was the servant of that House, and consequently the first servant of the public, which was a situation of great rank and dignity. In his judgment, it was the interest of the public at large, as much as it was the interest of the House, that a person holding such a situation should be so provided for as to prevent all suspicion of his being liable to the influence of the Crown. He had no doubt, therefore, but the people would concur with the House in allotting the Speaker an income suitable to the dignity of his rank and station. To argue that the present question ought to be resisted, upon principles of economy, was to push economy to its utmost extreme; and, under that pretence, to substitute a miserable parsimony in a point, of which the leading characteristics ought to be liberality and generosity.

Mr. *Burke* said, that as an hon. gentleman, whose known purity of mind, and whose conduct, as one of the most upright, able, and industrious members of that House, rendered every objection made by him to any measure that was proposed, a matter well worthy of their most serious consideration, had mentioned the resolution voted by that House some years ago, "that the influence of the Crown had increased, was increasing, and ought to be diminished," it was impossible for him to hear that resolution alluded to, and sit silent. He was well known not only to have taken a part in laying down the principle stated in the resolution in question, but to have acted upon it in more than one instance. He begged leave to remind his hon. friend, however, that the principle was not a moving, a successive principle, coeval with the constitution; it was not a truth immutable and perpetual like an article of our religious creed; but liable to refutation; and though indisputable at the time the principle was laid down, capable of change as circumstances altered. He would venture to say, that the resolution did not apply at present in any thing

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like the proportion that it had applied at the time it was voted; if it did, the House had lost much time and wasted considerable pains since, in endeavouring to act upon the principle and meet it, on a variety of occasions. For his own part, he should vote in favour of the motion, for reasons directly opposite to those stated by the respectable member who opposed it. He should vote for it, because he considered it as an antidote against the influence of the Crown, and as a motion, by admitting which, the House would follow up their own principle, and, in an essential instance, diminish the influence of the Crown. For, what was the object of the motion, but for the House to take the provision for their first officer into their own hands, and to prevent him from remaining longer subject to the influence of the Crown? The struggle, therefore, lay between the influence of the Crown and the influence of the House of Commons; and would any member hesitate a moment on such a question, in favour of which part he should decide. With regard to laying an additional burthen on the people, and giving 5000*l.* a year out of the taxes paid by them, where was the difference, in the end, to the people, whether they paid the money immediately, or paid it indirectly, through the medium of the Crown? It was well worth their while, at any price, to lay out their money to purchase the independence of the Speaker of that House; and so strongly did he feel this, that he could not but wish that the House would assert its own independency, relieve the civil list from the sum paid to the Speaker out of that fund, and take the whole of the Speaker's salary upon themselves. So far from being a burthen to the people, it would, in all probability, prove the means of preserving them from burthens in future. With regard to the amount of the sum proposed, his own opinion was, that 5000*l.* a year was not sufficient for the purpose. They had a common interest in maintaining the dignity of their Speaker, and what might at one time be adequate to the expense, they all well knew would not be adequate at another. The same nominal income which at one period had been an ample allowance, at another would prove by no means sufficient to answer the same purposes. There was an evident necessity, therefore, for an increase of the Speaker's income. The people, he was persuaded, would readily grant it. The only unequivocal proof of a people's love of their government, was their consent to pay their money for its support, and to decorate it with every symbol of exterior grandeur. The people had spoken by their proper voice, their purse, on more than one occasion for this purpose. He was satisfied that they would readily open that purse, and unlock their pockets, in the present instance, where the object to be gained would be entirely their own. With regard to the conduct of the present Speaker, Mr. Burke declared that what had been said by other gentlemen, rendered it the less necessary for him to enlarge upon the subject: as far as he had witnessed, the respectable gentleman who now filled the chair, had acted with so much impartiality, attention, and diligence, that he had not only answered the expectations of his own friends, but so far satisfied the House in general, as to attach the good opinion of those who had voted for another person to fill the office. He had been one of those who had voted for another Speaker to fill the office, and if the occasion were to present itself again, he should do the same; because he conceived it to be no disgrace to any man, however distinguished his talents, and however respectable his character, for another to have a preference in his own mind for a particular friend. Certainly, no salary, however large, which the House might vote for their Speaker, would preclude the possibility of his being ultimately honoured with a peerage, because that House could not deprive their Speaker of any of those honours, which the prerogative of the Crown had a right to bestow either upon their Speaker or any other commoner.

Mr. *Powys* thought with his right hon. friend who had last spoken, that to pass the motion, was following up the principle laid down in the resolution of a former House of Commons, "that the influence of the Crown had increased, was increasing, and ought to be diminished." Indeed, he had entertained the hope that the question was one of those which would have been carried without the slightest objection whatever. He thought it material to the House, that their Speaker should be rendered independent of the Crown, and that he should look up to that House alone for support. It would be carrying economy to a most pitiful extremity, to refuse to grant 5000*l.* a

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year, or even more, for the attainment of so great an object as that now under consideration. He concurred in the praises which had been bestowed on the Speaker, and said that the right hon. gentleman had derived this advantage from the dignified situation to which he had been called,—his conduct, during the short time that he had sat in the chair, had been such, that his character and merit no longer depended on the partiality and good opinion of his friends, but could be justified by the unanimous testimony of the House. He hoped, therefore, that his hon. friend would consent to withdraw his objection.

Mr. *Wilberforce* rather wished that his hon. friend should not give up his objection, because, by persevering in it, the question was put upon its true ground. His hon. friend had stated his objections, under obvious embarrassment, at which he did not at all wonder. He declared that his wish had been, that the question should have been debated on public principles, and not considered in any degree as a private question. What had been said, however, rendered it impossible to avoid considering the question in some sort as a personal question, and he was happy to concur in all that had been mentioned of the meritorious conduct of his right hon. friend in the chair, who certainly had evinced as much impartiality, and as much attention to the business of the House and to individual members, as any one of his predecessors. Mr. Wilberforce said, he felt himself proud, as the representative of one of the largest counties in the kingdom, to say that he was thoroughly persuaded that his constituents would cheerfully contribute their share to render the Speaker independent of the Crown; and he had not a doubt but that the rest of the kingdom would gladly bear their part of so slight a burthen, when it was imposed for the sake of obtaining so great an object.

Sir *Watkin Lewes* observed, that as the motion had been objected to by one hon. member, on a ground that it would saddle the public with an expense, if he might be allowed, as one of the members for the city of London, and scarcely less acquainted than perhaps any member of that House with the sentiments of the public, to risk an opinion, he should declare that he believed they would rejoice at seeing the Speaker made independent of the Crown. To support the independence of the Speaker, was to support the independence of that House; and the people were deeply interested in the subject. If he had any objection to the proposition, it was, that it was not sufficiently liberal. If a corporation granted a more liberal salary to their chief magistrate, besides a mansion to reside in, out of their revenues, how much more did it become the House of Commons, the representatives of the people, to support the dignity of their Speaker, the first commoner in the kingdom, out of the purse of the public?

Mr. *Hussey* said, that what he had heard, howsoever ingeniously advanced, was not of weight sufficient to induce him to change his sentiments. Colour the matter as they would, the effect of the motion, would be an increase of the influence of the Crown, by putting it in the power of ministers to give away one more place. He acknowledged the merits of the Speaker, and wished him to enjoy as ample emoluments as any of his predecessors; but as the Crown had a check upon the election of a Speaker, he thought that a part of the Speaker's emoluments ought to depend upon the pleasure of the Crown.

Sir *Joseph Mawbey* accompanied the expression of his earnest wish that the motion might pass unanimously, with the remark, that in the early part of his life, when a very young member of that House, he had the honour of an acquaintance with Mr. Onslow, and had heard him declare, that he resigned the treasurership of the navy, because he thought it incompatible with the dignity of Speaker of the House, and the necessary independence of that office, for him to hold a place, during pleasure, which the Crown bestowed.

The motion was carried, with the single negative of Mr. Hussey.

March 15. The House having resolved itself into a committee, to consider of a proper Allowance to the Speaker of that House, three accounts were, upon motion, referred to the committee. The master of the rolls took the chair.

Mr. *F. Montagu* having previously read his motion, and observed that he meant to fill up the blank with the sum of 5000*l.*, begged leave to remind the House, that upon the day when the subject fell partly under their consideration, he had stated that, on an average of ten years, the

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Speaker's emolument for fees, had amounted to 1,232*l.*, and on an average of eleven years, to 1260*l.*, which, with the payments out of the exchequer, made in all somewhat under 3000*l.* a year. There were, besides, some other emoluments of less important consideration, which, however, it was right the House should fully know; and these consisted of equipment money, on the commencement of a new parliament, amounting to 1000*l.*; a service of plate of 2000 ounces, about 1000*l.* more; 100*l.* for stationary; and, what every gentleman who had partaken of the hospitality of the Speaker's table, must be glad of, two hogsheads of claret annually. These were the whole of the perquisites, fees, and income of the Speaker; and surely, it must be admitted, that such an income was by no means equal to the support of the necessary dignity and splendor of the office; an office which ought to be supported wholly independent of the favour of the Crown, He meant to propose that the difference between the sum now received, and that which he should propose, should be paid out of the sinking fund, and he appealed to the right hon. and learned gentleman in the chair, who himself deservedly held a judicial office of high rank and authority, whether it had not been usual, whenever the judges salaries had been raised, to put the payment of the addition upon the public, and leave no more upon the civil list than it had been originally charged with. He recollected that when Mr. Onslow was Speaker, and held the office of treasurer of the navy, upon a warm discussion of a certain political point, the question came to be decided by the casting vote of the Speaker, and after Mr. Onslow had given his vote, the place which he held was thrown in his teeth. Mr. Onslow being a high-spirited man, the very next day resigned his place; and though he held the office of Speaker for eighteen years afterwards to the disgrace of the House, he received no more than the income of the amount of which the House were now apprized. The consequence was, that when he resigned, Mr. Onslow must have retired in a very uncomfortable state, indeed, had not the House, aware of the circumstance, and feeling their own credit or disgrace involved in their conduct on the occasion, voted Mr. Onslow a pension of 3000*l.* a year for two years. The present proposed increase of the Speaker's income would prevent a similar necessity arising to future Speakers, and therefore, he trusted, as it involved the dignity of the House, that there would be an almost unanimous vote on the occasion.

Mr. Secretary *Grenville* thought it incumbent on the House to support their Speaker with an income adequate to the spendour which ought to accompany the high office which he enjoyed. It was the more satisfactory to his mind to concur in the motion at that time, since, on every ground of personal consideration, it was evident, that the right hon. gentleman who now filled the chair with so much credit to himself and advantage to the House, had merited and obtained the approbation of all its members.

Mr. *Welbore Ellis* added his tribute of applause to those so deservedly offered to the Speaker, who had completely fulfilled the expectations of his friends, and engaged and secured the general good opinion of the House. He approved of the motion, declaring that the Speaker of that House was not only a great officer of state, but a great officer of the people, who ought, undoubtedly, to maintain him with that splendour and dignity becoming his high situation.

Sir *Grey Cooper* thought that the increase of the Speaker's income had been delayed too long, to the great disgrace of the House of Commons in former parliaments, ministers having, at least indirectly, confessed that the income was inadequate to the office, by almost constantly appointing the Speaker of that House to a place under the Crown.

Mr. *Pitt* observed, that having, on a former occasion, taken the liberty to recommend the present Speaker to the House for their election of him to the chair, he had been backward in declaring his sentiments on the subject, lest the declaration of them might be imputed to motives of personal regard and partiality. He was particularly glad, therefore, to find that the motion, with the propriety of which he entirely concurred, had come from gentlemen who could not possibly be suspected of having acted from any motive but a sense of what was due to the dignity of the Speaker's situation; and he was not a little flattered in finding that his right hon. friend had conducted himself while in the chair in a manner so much to his own honour and to that of the House, by whose suffrages he had been raised into so distinguished a situation.

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Sir *John Miller* paid the Speaker many compliments, but declared, he thought the increase proposed infinitely too small. He said, the increase ought to be paid from the day that he had been chosen Speaker.

The *Speaker* now rose, and expressed his acknowledgment for the kindness and partiality of the House. He observed that he must be dead indeed, to every sense of gratitude, if he forbore to say that the impression made upon his mind by the flattering opinions of so many great and respectable characters, was such as no words he could utter were capable of describing. To have the good fortune, in any shape, to be thought worthy of the favourable opinion of that House, he considered as the highest honour which could have happened to him, but if he had been so fortunate as to meet the approbation of that House, it had, he was persuaded, arisen from the support the House had always given him; and the only return he could make was, by declaring, that it should operate as an incentive to his perseverance in endeavours to compensate by attention for whatever he might be deficient with regard to abilities, and he would assure the House, that his sole guides should be his judgment and his conscience in the maintenance of their authority, and in a faithful and impartial discharge of the duties of the office with which he had been honoured. He intreated those gentlemen who had particularly brought forward the present motion, to believe him, when he declared, that their conduct on this occasion had, if possible, increased the respect which he had long entertained for their characters, and redoubled all the inviolable and sincere impressions of gratitude and esteem which their unremitted candour and indulgence had excited.

Sir *James Johnstone* having observed that the majesty of the people was represented in the person of the Speaker of their House, contended, that the addition proposed was too small an increase. He thought that another thousand a year at least ought to be added, and said, that if any gentleman would second him, he designed to move that addition, by way of amendment.

A multitude of the members having exclaimed, "Move! move!" sir James moved his amendment, which was seconded by sir Benjamin Hammet.

Mr. *Pitt* expressed his wishes, in which he declared himself confident of meeting with a concurrence from the inclinations of the House, that the vote on the present occasion should be unanimous, and although he was much gratified in finding, that if there could possibly arise the least difference of opinion, it was only whether the increase was to be one thousand pounds more or not, yet as the right hon. gentleman who had originally made the motion, had certainly done it on mature deliberation, and from a well considered idea that 5000*l.* was just about the sum to which the Speaker's salary ought to amount, he rather trusted that the House would take example by the right hon. gentleman's moderation, and that the hon. baronet, and the respectable magistrate would be prevailed on to withdraw their amendment.

Mr. *Fox* declared that he highly approved of the motion, having long been of opinion that the emoluments of the Speaker were by no means adequate to the dignity of his situation. It was desirable that the motion should pass with unanimity, but if the sense of the House were taken, he should certainly vote for the larger sum.

The committee divided on the original motion: Yeas, 28; Noes, 154. The amended resolution was then put and agreed to, viz. "That it is the opinion of this committee, that for enabling the Speaker of the House of Commons, for the time being, more effectually to support the dignity of the said office, and the expense necessarily attending the same, the lord's commissioners of his majesty's treasury be authorized to direct, from time to time, a sum to be issued at the exchequer, which, together with the fees, and allowances of 5*l.* a day now payable on account of the said office, may amount to the clear yearly sum of 6000*l.*" On being reported to the House, it was agreed to, and a bill was ordered to be brought in thereon.

Debate on Mr. Francis's Motion for a Committee to inquire by what Authority Mustapha Cawn was put to death.] Mr. *Francis* desired that certain papers might be read, which, he said, would save time, and shorten the debate, viz. 1. The deposition of Ahlaud Sing, Subadar, stationed in the fort of Gorrucpore, the deponent sworn before chief justice sir Elijah Impey, 26th November, 1781, contained in the second report of the select

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committee. This deponent states, that he had confined under his guard 115 burgomauls, inhabitants of Surwaur; that on the 5th of September, 1781, the fort was attacked by great numbers of the country people; that during the attack, he gave orders to his havildar to put all the above prisoners to the sword; that he instantly struck off the heads of eighteen burgomauls, and threw them out, and wounded several others: that, a few days after, an order came from the colonel (Hannay) to Munuvevar Khan, directing that, if the rajah Mustapha Cawn had been put to death, well; if not, to strike of his head: Munnuvevar Khan showed him (the deponent) the order, who said, "The order is not written to me; I will write to the colonel on the subject." That the captain (Williams), on his return to Gorruckpore, gave orders that the head of Mustapha Cawn should be struck off, and he was beheaded accordingly; and a proclamation was made through the town, that those who were guilty of such crimes, would meet with the same punishment. That, marching from thence, in four days the captain arrived at Baunsi. The rani of Baunsi came to see him; but her son prepared for hostilities, and said, "They have struck of the head of our rajah at Gorruckpore, and I will be revenged." 2. Extract of the 13th article of charge against Warren Hastings, esq. 3. Extract of captain Williams's evidence before the House of Commons, on the 2d of June, 1786, quoted by Mr. Francis in the debate of the 8th instant. 4. Copy of a letter from the nabob of Oude to Mr. Hastings, received on the 15th of September, 1782, viz. "My country and house belong to you. There is no difference. I hope that you desire in your heart the good of my concerns. Colonel Hannay is inclined to request your permission to be employed in the affairs of this quarter. If, by any means, any matter of this country, dependant on me, should be entrusted to the colonel, I swear by the holy prophet, that I will not remain here, but will go from hence to you. From your kindness, let no concern, dependent on me, be entrusted to the colonel, and oblige me by a speedy answer, which may set my mind at ease." These preliminary readings being finished,

Mr. *Francis* said, that although he had not the vanity to think that any thing he was able to say could have made a deep impression on the House, he, nevertheless, believed that, considering how much the subject of capt. Williams's petition had been agitated, both in the House and abroad, it would be unnecessary to go over the same topics again, on which he had fully given his opinion already. There were two passages only in the former debate, of which he found it necessary to remind the House. The first was, that it had been stated by a person of authority (Mr. Pitt) and seemed to be admitted with general assent, that, although a petition of that nature could not be received, it was still open to any member to bring the matter of it under the consideration of the House, by a motion or otherwise. The second was, that it had been particularly urged to him by a member in his place (major Scott), that, considering how heavily he had charged capt. Williams, he was bound, in duty to the public, and in common justice to the party, to bring the business forward in some shape or other, to give capt. Williams an opportunity of clearing his character, or to punish him, if he deserved it. To this application he had immediately replied, that, by giving his opinion ever so strongly on the merits of a case, which the petitioner himself had submitted to the House, he did not conceive that he was at all engaged (though perfectly at liberty to do so, if he thought proper) to proceed farther in that business, any more than any other member. On that point, he had not altered his mind, though he had taken another resolution, for reasons which it was incumbent on him to state to the House. Gentlemen, he believed, could not but have heard of a report prevailing abroad, that in the interval since the last debate, a private application had been made to him on the part of capt. Williams. He would now state the circumstances of that part of the transaction as distinctly as he could. There was nothing in his conduct that wanted shelter by suppression; there was nothing in his character that wanted protection by concealment. He felt and knew that, in this respect, he was above suspicion. That, on Tuesday the 9th instant, he had received a visit from two gentlemen, who were commissioned by capt. Williams to represent to him that, considering the severe and personal terms of crimination, in which he had charged capt. Williams with murder, it was demanded of him, in point of justice, it was expected from him, in point of equity, and even solicited from

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his candor, that he would take it upon himself to promote a regular inquiry into the facts, without which capt. Williams never would have an opportunity of clearing his character and conduct in the eyes of the world. That, in the course of the same day, he had received a second visit, on the same subject, from one of the same gentlemen, accompanied by a third, and by capt. Williams himself, who repeatedly assured him at that time, and the next day, at an accidental meeting in the street, that, in addition to all his claims on the score of right and justice, he should for ever consider Mr. Francis as " his best friend," if he would, some way or other, endeavour to bring the question to an issue. To these representations, concurring with his own sense of the importance of the case in a public view, and to these alone, he had yielded. The House would naturally start with surprise, at the name or idea of friendship attached to an act, apparently so hostile to this gentleman, as an endeavour to institute an inquiry which might terminate in a trial for his life; yet, if gentlemen would consider it a little, they would perceive nothing absurd or unreasonable in such an application of the name of friendship. The sense, in which that language was used by capt. Williams, and received by himself, made it rational and proper: for, supposing it to be true that there was no other course left to save his character from everlasting infamy, but an inquiry productive of a capital prosecution, it might then, in its effect, be a proof of real and substantial friendship, to urge and promote that hostile inquiry. If this idea still wanted explanation, gentlemen would perhaps understand it better, by comparing that fair and open hostility, to which he alluded, and which, in its operation at least, might be useful, if not amicable to its object, with an enmity of another kind, which, under the title, mask, and profession of friendship, acted really and intentionally to the disgrace and ruin of the person, whom it pretended to serve. That instances of such friendship must have fallen within the observation of every man, when to answer a special purpose, to serve a particular turn, a treacherous, meddling friend makes no scruple of sporting with the life and honour of another, and of advising or betraying him into steps, which might lead to his destruction. Of such abandoned treachery, however, he did not mean, in the present transaction, directly or indirectly, to accuse any individual; and he said so expressly to obviate the possibility of a misapplication of his words. But there was a busy, interposing friendship, which, though not treacherous in its intention, might be as ruinous in its effect as even perfidy itself; and of this they had examples every day before their eyes; a cruel, blind, and restless indiscretion, which took a concern where it had none, which gave advice without being asked, and ruined the very cause which it was most eager and zealous to support. That such friendship, without discretion, though sincere in its principle, was enmity in effect, and the most dangerous counsellor, with which any man or any cause could come into contact. Mr. Francis said he had stated the application made to him by capt. Williams, for three reasons. First, to silence the voice, or rather to stifle the whispers of secret calumny; as if any motive, but those which he had stated, could have had the weight of an atom to determine him to do, or to restrain him from doing any act whatsoever. In speaking of calumny, he alluded only to the language of the malicious and the ignorant. They who were informed, and knew what passed, would bear witness, if it were necessary, to the truth of every thing he had stated: they were all military men of character and particular friends of capt. Williams. Secondly, to obviate a suspicion, which possibly might occur to people abroad, who saw nothing but what appeared on the face of the public proceedings, viz. that he had resumed this business out of pure spite and malice to capt. Williams, and not on the ground of justice, concurring with and enforced by the earnest desire of the party most concerned. Thirdly, to account to the House for the extraordinary circumstance of his being in possession of the original petition, signed by capt. Williams, who had readily furnished him with it. Without this paper, he could not have taken any farther step in the business, for want of evidence of the fact, on which the issue of crime or no crime was to be tried. Capt. Williams had now voluntarily, and for a purpose beneficial to himself, declared, under his hand, that he had put Mustapha Cawn to death: and here he begged to observe, that whenever he alluded to capt. Williams's confession, he meant only of a fact; for he had not yet been advised to plead guilty of the crime.

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Having thus explained the motives and principles which had induced him to resume the subject, he would proceed to the important part of what he had to offer to the consideration of the House, and would state the course of proceeding he meant to pursue, viz. first to show, that a native of India had suffered death by the orders and agency of two British officers. Secondly, who the person was, and in what circumstances he had suffered death. Thirdly, that the fact had been affirmed in terms of high crimination by the House of Commons, at the bar of the House of Lords. Fourthly, that it was now for a third time brought into the view of the House: first, by the reports of the select committee; secondly, by the petition of capt. Williams; and thirdly, by the present proceeding, concurring with the voluntary desire and earnest request of the said Williams, for an inquiry into the fact, and supported by voluntary declarations under his hand, that he put Mustapha Cawn to death deliberately and after some delay. Fifthly, that it was a fact of which the great inquest of the nation ought, and was bound to take notice; and that there were various courses. Sixthly, that the evidence was sufficient to establish a *corpus delicti* in a court of justice; that is, that a man had been violently deprived of life, without the process of any law, or warrant of any magistrate whatsoever, by a British subject. Seventhly, that this fact being averred and admitted, a court of justice could not refuse to try the issue of crime or no crime; and Eighthly, that the justification set up was more important than the fact itself, whether done upon the authority of a purwannah from the nabob, or under sanction of an order from a commanding officer.

Having stated these eight propositions Mr. Francis proceeded to support and establish them severally by argument. With regard to the first, he said, he need trouble the House with little upon that head. The fact was proved by the deposition of an eye-witness, taken upon oath by sir Elijah Impey, and exhibited at the bar of the House of Lords, where that chief justice declared, that the deposition had been regularly taken. With respect to the second, who the person was, and under what circumstances he suffered death, the same deposition proved that Mustapha Cawn was, and had been for some time, a prisoner confined in a fort, of which capt. Williams had taken the command for a few days only; that he was put to death in cold blood by the immediate order of Williams, not on pretence of any alarm from without, or insurrection of the prisoners, but deliberately and quietly, whether in the pretended execution of a pretended sentence, or in obedience to repeated orders received from the late col. Hannay: that Mustapha Cawn was a rajah, or prince, and must have been what the House of Commons had averred him to be a person of great rank, eminence, and consideration in that country, since he had been able to raise 10,000 horse and foot, and the Rani of Baunsi's son described him by the title of our rajah. Third, that the House of Commons, in the 13th article of their impeachment of Mr. Hastings, had formally and truly averred, at the bar of the highest tribunal in this kingdom, that David Williams, or some other English officer, did, in execution of a certain bloody and arbitrary order, (given by the late col. Hannay) without any form of process, and in cold blood, direct and cause rajah Mustapha Cawn to be put to death, and this act is further averred by the House of Commons to have been "a cruel and atrocious murder, committed on a person of high rank." Fourth, the truth of the assertions contained in the fourth proposition admitted of no dispute. Capt. Williams had declared under his hand that, "if he was in any degree culpable, it was rather for mistaken lenity in delaying the execution than for hastening it. The act, therefore, whether criminal or innocent, was not done hastily, not in a moment of sudden passion or alarm, not even upon the spur of an occasion, but deliberately, after some delay, and with time taken for reflection. Fifth, that a homicide, so circumstanced, so forced into the knowledge of the House of Commons, and so averred by a solemn declaration of their own to be "a cruel and atrocious murder," was a proper subject of inquiry in that House;—that as long as it was a question, or in any degree doubtful, who the person was who committed the murder, the House of Commons might be excused in not proceeding farther. But now that the man came and forced himself into their view, if they wilfully shut their eyes to such a fact, or refused to inquire into it, they would desert their duty, violate their trust, forfeit their right, and, in fact, cease to be what

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the constitution had made them, not for their own sake, but for the good and service of the people, the grand inquest of the nation. That all constitutional powers and jurisdictions were given to be exercised, and would be forfeited, not only by corruption or abuse, but by failure and negligence, in consequence of which the powers so given would sooner or later lapse into other hands. If a case could be imagined, in which the House of Lords should be guilty of a gross and palpable abuse of their jurisdiction in the face of all mankind, whether by a formal denial of justice, or by scandalous tricks and delays equivalent to a positive denial, would any man affirm that they would not thereby, and ought not to forfeit their jurisdiction; that the public service ought to be left unperformed, and that no substitute ought to be provided to fill up and execute the office which the nobility had deserted. He hoped such a case would never happen in England; but it had actually happened in another country. The Roman senate, in consequence of a similar practice, on a similar subject had lost their jurisdiction, and seen it transferred to another order in the republic,* and that he had lived to see many much more extraordinary and difficult revolutions in the conduct of human affairs, than it would be to transfer the jurisdiction of the Lords to some other tribunal. That the present question was of great public importance; that it touched the national honour and character, if a case so enormous, once known to the House of Commons, should be dismissed or past by in silence; that if the House refused to take cognizance of it, they would in effect give a *quietus* to all murders already committed, and hold out an indemnity to all the murders that might hereafter be committed in India. Let the executive power look to it; let the board of control look to it. From the moment such a resolution passed, the natives of India would have no security for their lives. That supposing an opinion could be maintained, contrary to his own clear and certain conviction, viz, that no existing law of this country would reach the case in question, it did not therefore follow, that a crime so atrocious in the fact and so dangerous in the example should pass unpunished. He had no doubt that capt. Williams might be tried on the statute of the 33d of Henry 8th, in which the case of all murders committed by British subjects, without the king's dominions, was specially provided for. But, if not, it would then be so much the more necessary for the House to proceed in a legislative way, by a bill of pains and penalties, if not by attainder. The House of Lords had furnished an example of this mode of proceeding, on occasion of the murder of captain Porteous, at Edinburgh, in the year 1737. Of their own motion, they instituted an inquiry into the transaction, and heard evidence at their own bar; and on that ground alone, brought in a bill of disabilities against the magistrates of Edinburgh, for neglect of their duty, &c., which passed into a law. He did not recommend such a proceeding now, because he was sure it was unnecessary. He understood it to be a rule in the criminal courts, and he thought it a very prudent one, before they suffered an indictment for murder to be tried, that a *corpus delicti* should be previously established, that is, that it should be proved first of all that a human creature had been deprived of life:—he did not know whether this was an ancient rule in the courts, or only of a modern date; but he believed the institution or the revival of it was owing to a fact which had occurred not many years ago, of a man's having been indicted, tried, found guilty, and executed for a murder, though it appeared soon after that the person supposed to have been murdered, was alive.

In the present instance, the fact or death of Mustapha Cawn was out of all question; no man disputed it. It was not only proved by a deposition upon oath, taken by an English chief justice, but by the best of all evidence, the voluntary declaration of the party, not confessing a crime, but avowing an act which he supposed to be innocent at least, if not a meritorious act of duty. With such a declaration before them, under the hand of capt. Williams, would a court of justice say, that they could not suffer the issue to be tried, because there was no proof that a man had been deprived of life, or that no *corpus delicti* had been

* "Caius Gracchus legem tulit de potestate judiciorum, quæ ob judicum corruptelas erant infamia, a senatorio ordine ad equites transferendâ, exprobrans Senatoribus recentissima maxime exempla, Aurelium Cottam, Salinatorem, Manium Aquilium, qui Asiam devicerat, peculatûs manifeste reos, elapsos corruptis judicibus, &c." Vide Appianum de bellis. Cic. 1. 22.

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established? Impossible! No judge could be guilty of so gross and wicked an absurdity. Whether the act was done violently, without process of law, or warrant of any magistrate, were properly questions to be determined by the trial. In the mean time it was sufficient for the House to observe, that capt. Williams had not produced, and did not pretend to have received, or even to have seen, any sentence or warrant whatsoever for putting Mustapha Cawn to death; but had rested his justification on the military obedience due to his commanding officer, whose orders had been communicated to him, not in the form of a regular warrant, but in sundry private letters from col. Hannay and his secretary, written in a friendly familiar style, and without the smallest reference or allusion to any previous court-martial, or other mode of trial whatsoever, as for example, "if you deem there is even a risk of a rescue, let that murderous villain be hanged. My reason for desiring this is, that it was the nabob's orders to me; the death of Mustapha Cawn is of the highest importance." Eighth, that the justification set up by capt. Williams was of infinitely greater consequence, in every point of view, than the single murder of an individual, however atrocious, inasmuch as it aimed at establishing a fertile principle of impunity in favour of murder, and of every other crime, which our officers in India might be tempted to commit. He says, "He was informed that a purwanna had been sent to one of the native officers in the fort, ordering him to execute the sentence of the nabob on Mustapha Cawn." No such purwanna, nor even a copy of it, appears. His return to the order of the House of Commons is, "Capt. Williams has no purwanna, nor any copy of the purwanna issued by the nabob for putting Mustapha Cawn to death." The return from the India House to the same order is, "The records in possession of the East-India Company in Europe do not contain an entry of any order from col. Hannay, or purwanna from the vizier for the execution of Rajah Mustapha Cawn."

Mr. Francis therefore said he had a right to affirm it did not exist; "de non apparentibus et non existentibus, eadem est lex." Did capt. Williams pretend that it was directed to him? No. Did he pretend that he had ever seen it? No. Then to him, at least, it could have been no authority. But, if col. Hannay were alive, if he were present, and had twenty purwannas to produce from the nabob of Oude, and even if they were all the voluntary acts of the nabob, would the House suffer a British officer to justify the putting any man to death by the bare order of a native prince of India? When such a justification of such a fact was brought, nay forced into their view, would they assent to it in silence, would they confirm it by a direct approbation, or would they not blast it by the severest condemnation? But what in effect was the nabob, or any other native prince connected with us, but a vassal and a slave? The vassal of the India company, and the slave of the company's servants. Mr. Hastings, in his minute of the 15th Dec. 1779, says, that, "in consequence of a treaty made with the vizier in 1775, he eventually and necessarily became a vassal of the company." Mr. Francis agreed in the fact, though he said it arose from another cause, from a measure proposed and executed by Mr. Hastings himself, in 1777. If this was his condition in 1779, what was it in the subsequent years, when the power of the company's servants, over him and his dominions, had gathered strength by continuance, and fastened itself upon him. Mr. Francis earnestly intreated the House to listen to the language in which this unfortunate prince, once the sovereign of a country equal to England, in extent, and with an annual revenue equal to three millions sterling, describes his situation. The letters from which the following passages are taken, are in evidence before the House of Lords, and appear to have been written by the nabob, who is also vizier of the empire, to his vakeel at Calcutta, about Dec. 1782. "Writings are now sent to you for both cases. Having privately understood the wishes of Mr. Hastings, deliver whichever of the writings he shall order you; for I study Mr. Hastings's satisfaction." Again. "It is like the proverb of raising dust from the waters of the river. The gentlemen make all these accusations for their own continuance and confirmation in authority. Having kindly interested themselves in my affairs, they thus represent and write to Mr. Hastings the situation of my country far and near. All this is the diligence and zeal of the gentlemen towards me! I am not in such a degree ignorant as not to know what is,

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or what is not for my advantage. Bound hand and foot, I am wheeled round by the rage of the river, and then you tell me, be wise, do not wet your garment. I am assured that the friendship which the gentlemen here show to me, is not known to Mr. Hastings." You see he knows what sort of friends they are, who so kindly interest themselves in his affairs. "I am in so strange a situation, that my life is even disagreeable to me. Mr. Johnson has appointed aumils, and peschars, and fouzdars on his part, and he has made me his toshuckjee to give the kelauts; and, when Mr. Johnson's orders arrive, if there be an instant's delay, he is angry!" Mark that; Mr. Johnson, a writer in the company's service, is angry with the vizier of the empire, with the sovereign of Oude. "I am like a Chuppagur to affix the seal (a sealer), and am obliged to write whatever the aumildars appointed by him wish, whether conformable or contrary to custom; and the delay of a moment is the cause of anger. As my condition is come to this pass, what pleasure is there left in life!"

Such is the freedom and independence of a Mahomedan prince, whose order is supposed to be a sufficient authority to an English officer to put any native of India to death. Is it, or is it not? The question is before you: you cannot evade it. If you refuse to condemn, you admit; and if you admit, you approve. From that moment you adopt the principle, you tell your officers in India they may commit any murder with impunity, provided they have the sanction of the purwanna of a nabob; of a miserable enslaved creature, without a will, without a choice, nay without any other security for his life, but an implicit submission to the very people who plead his orders to shelter their own crimes. Look to the consequence. If I were governor of Bengal, do you think I could not obtain from Mobarek Ul Dowlah, the nominal nabob at Moorshedabad, a purwanna to put to death any native in the country? He is just as good and effective a sovereign of Bengal as the present vizier was of Oude in the year 1781: what the latter may be now, I know not. Would an English court of justice listen to such a plea? Would they endure it a moment? I am able to prove to you, that, even in a civil action, they would reject it with indignation. About twenty years ago, an action was brought against the late governor Verelst for false imprisonment, by two Armenian merchants, who had been seized in Oude, and brought away by force to Calcutta. In that case, as in the present, the justification set up was, that the act in question was done by the order and authority of the late Sujah Dowlah, at that time nabob of Oude, and unquestionably exercising sovereign power in his own country. How had the judges received and treated this plea?

Chief Justice de Grey, said, "I consider the nabob as not being the actor in this case; but the act to be done, in point of law, by those who procured or commanded it; and in them it may doubtless be a trespass. Sujah Dowlah was a mere instrument; he acted not from any motives of his own, but acted through awe and fear." "Justice Gould was of the same opinion." "Justice Blackstone, was of opinion, that the nabob was a mere machine, an instrument and engine of the defendant." And the consequence was, that the Armenians recovered 5000*l.* damages.

The second plea, on which capt. Williams principally relied was, "that he was bound by military law to obey the orders of his commanding officer, and that, if he had delayed the execution of those which he received from col. Hannay, for the death of Mustapha Cawn, he would have rendered himself responsible for all the ill consequences which might eventually have followed the disobedience of orders, and have undoubtedly merited, and perhaps have received, the sentence of death upon his own person." Before the House considered the validity of this plea, Mr. Francis requested they would observe that it had no sort of connexion with the former. It took none of its force from the supposed order of the nabob; for, whether such order to col. Hannay existed or not, capt. Williams, on the principle of the present plea, was bound, at the hazard of his life, to obey the orders of his superior officer; if this were true, all other pleas in defence of the act in question, were superfluous. The moment the orders of col. Hannay were proved, capt. Williams must be acquitted. I shall not argue the point of law on this subject; the articles of war expressly limit the obedience of military men to the lawful orders of their superior officers. This House, I presume, will not suffer such a doctrine to be maintained here, as that an officer is to obey all orders what-

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soever, without distinction, and whether they relate to his military duty or not, to march or to murder, to fight or to assassinate. I did expect, because I think the occasion naturally demanded it, that some gentlemen, who have held high stations in the India company's army, would have attended here this day, either to support the character of a brother officer, or to vindicate the reputation of the whole military service in India; for never was it so heavily impeached before. I did every thing in my power to engage their attendance*; but their absence is a sufficient declaration of their opinion. I respect them too much to think it possible that they would have refused or neglected to appear and support the honour of a brother officer, if they thought they could have done it without injuring their own.

As to the aspersion, implied in the defence of this transaction, on the whole Indian army, I shall take upon myself to vindicate their character from that foul reproach, though I own it would have come with greater propriety from general officers, who have served and commanded in that army. Some members there are, however, in this House, though not so high in rank, who have served in India with distinguished honour, and who, I am sure, will come forward, and support me, when I affirm, that the act in question and the defence set up for it, are as opposite to the general practice of the British army in India, as they are to military law, and to every just and rational principle of military discipline. I affirm that no native of Hindostan within the English jurisdiction, either in garrison or in the field, is, in any case, even for trivial bazar offences, ever so slightly punished, without process of trial, nor capitally without a public declaration of the offence, and a regular warrant signed and sealed, following trial and conviction. If you suspect the contrary to be true, if you believe that this particular fact is only a sample or specimen of the common established practice of your army in India, then, indeed, you must carry your inquiry much beyond the present case. If you approve such principles, say so; if not, you must censure and correct them. There is no medium. Your resolution this night, will be an instruction to that army for ever. At this point I might safely stop, and submit it to the judgment of the House, whether I have not laid sufficient ground for the motion with which I mean to conclude. But therearestill some very remarkable circumstances which deserve your attention. I shall state them shortly, as they occur to my memory. You have heard a letter read from the nabob to Mr. Hastings, which shows, that at the very time when he is supposed to have trusted col. Hannay with a power of life and death over his subjects, that officer must have been to him an object of fear and execration. So far was he from wishing to punish the insurrections which happened about that time in Baraitch and Gorrucpore, that Mr. Hastings tells you that he was strongly suspected, as well he might, of being concerned in them himself. He says, "he had received several intimations imputing evil designs to the nabob." Among the depositions taken by sir Elijah Impey, and sent home by Mr. Hastings, there is one of major John Macdonald, in which he states his information, that one of the insurgent rajahs "had a sunnud from the nabob, and also that he had the nabob's directions to drive the Fringes (the English) out of his district." Among the papers annexed by Mr. Hastings to his narrative, there is a letter to him from Jacob Barnet, dated 18th September, 1781, containing the following words:— "There is another letter from major Hannay, dated Fyzabad, 10th instant, the purport of which is nearly the same as that inclosed, to caution you against the secret designs of the nabob." The letter inclosed is from major Macdonald, and to the same effect. Consider this evidence; consider the state to which we had reduced the nabob and his country, and then determine which of the two is most probable, that he should have fomented the insurrections, or that he should have vested col. Hannay with authority to put the insurgents to death. Among these depositions, there is one more distinguished, at least more to my present purpose, than the rest; distinguished, I mean, by its omissions, much more than by its contents. It is the affidavit of capt. Williams, sworn on the 27th November, 1781, when the transactions of September, and his own situation at that time, of which he professes to give an account, must have been fresh in his memory. Accordingly, he relates, with the most minute exactness, every thing he had heard, said, or

* Sir Hector Munro and Sir Archibald Campbell were absent.

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done, in the course of that period. Every day's march, halt, counter-march. Even the receipt of col. Hannay's letters and orders, from day to day, is punctually specified. Of two things only there is no mention whatsoever—the execution of Mustapha Cawn, and the interview between capt. Williams and the rana of Baunsi, at which her son refused to be present. Now, I ask you, is it possible that in a deposition, otherwise so very minute and particular, two circumstances so remarkable could have been omitted, without design? Is it not evidently a suppression of facts, which the deponent felt and knew could not be safely mentioned? One fact more, and I have done. The only letter from col. Hannay to capt. Williams, in which the mode of execution is prescribed, runs in these words: "Dear Williams, if you deem there is even the risk of a rescue, let that murderous villain Mustapha Cawn be hanged." Capt. Williams did not obey the order, if it was one, for he cut off his head. To the victim of such an order, it might be of little moment in what manner he was deprived of his life; but the inference I draw from the fact is material. If capt. Williams thought that the office he took upon him (no matter by what authority) was purely ministerial, that he was only executing a sentence of death, as if it had been passed on the prisoner by a court martial, for so he describes his situation, how could it have possibly entered into his mind, that he had any right to alter the sentence? The order was arbitrary, and so was the execution of it.

Now, Sir, having laid and enforced this charge of murder so heavily against capt. Williams, God forbid I should omit or suppress any thing that appears to be in his favour. Against such a mass of conviction, I believe the circumstance I allude to will have little weight; but let it avail him as far as it can avail him. The earnestness, with which he solicits and provokes a trial, is *primâ facie* evidence that, let the action in its nature be what it may, he who did it was not conscious of committing a crime. It will be incumbent on his judges to give due weight to that circumstance, compared with all the rest. For my part, I fairly acknowledge it to be true, that I am prejudiced against him; so prejudiced, that no power on earth should compel me to sit in judgment on his trial. I shall not be suspected of meaning that low and vulgar disposition of the mind, that forms an opinion rashly without knowledge, and obstinately adheres to it without inquiry. My mind, I confess, is pre-occupied on the subject; but it is by every information I have been able to obtain, and by every reflection on the evidence, of which my understanding is capable. But the same pre-judgment, or prejudice, if you will, which ought to exclude me from any share in the judgment, expressly qualifies me for that part, which I have taken in the charge. It is no more in my nature than it would be my duty to agitate such questions as these with coldness or neutrality. I cannot look back to the occasion, or forward to the consequence, of the share I take in this business, without feeling, as I ought to do, not only for the innocent being that has suffered death, but even for the guilty hand by which it was inflicted. I cannot reflect on the possible event of this day, that it may produce a trial for murder, and terminate in a sentence of death, without great agitation. But, as I hope for mercy to myself, in that hour, in which the best of us will tremble at the name of justice, I believe I have done right. To captain Williams I shall only say, in the merciful language of our law, derived from the humane and generous character of this nation I believe you to be guilty;—but go to your trial, and God send you a good deliverance. Mr. Francis concluded with moving, "That a committee be appointed to inquire into the circumstances attending the execution of rajah Mustapha Cawn, and by what authority the said Mustapha Cawn was put to death."

Mr. *Windham* seconded the motion.

General *Burgoyne* began by stating, that however reluctant he might be to offer himself to the House upon most occasions, this was one in which, as a soldier, as a member of parliament, or as a man, he could not remain silent. He was more earnest and forward than many other gentlemen upon this subject, because it had been his particular duty to consider it deeply. Had the 13th article of the impeachment been brought forward last session it would have been his lot to have maintained the charges therein contained, of which the execution of rajah Mustapha Cawn makes a striking part. He should certainly have treated it before the Lords in the words found by the House of Commons, as "a cruel and atrocious murder," imputable to Mr. Hastings, who, by en-

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couragement of military abuses, and by perversion and prostitution of honourable discipline, had suffered British officers to become subject to the vilest employments of the most abominable misgovernment. It might then have been a painful, though it would have been an unavoidable duty to have brought forward capt. Williams, who was not immediately upon his trial; but in this place that pain was completely done away, for the gentleman came voluntarily before the House, avowed the act, and put to issue its justification, viz. obedience to orders; all, therefore, now to be considered was, whether an investigation moved for upon the principles of public justice, and at the prayer of the parties, was of a nature and magnitude for the intervention of this great inquest. It would perhaps be said, that the House of Commons was not the proper tribunal for military inquiry. In the more technical parts of military service perhaps not; though even in such, instances might be produced wherein the House had thought themselves competent to take cognizance; and such an inquiry had constituted one of the happiest days of his life. In the present instance the character of the nation, the honour of the British arms was to be vindicated, and the House was not only justified by its competence, but called upon by its duty to proceed.

It has been often and well remarked, he continued, that the military establishment of Britain never lost its reference to the law of the land; the limitation of obedience in the mutiny act is to "lawful" commands. No man will confound this limitation with the real, fair operations of war, with actual conflict of arms; commands consonant to the nature of war as practised by civilised nations, are lawful —I will presently consider the distinction. Sir, there is another law upon which the military establishment of Britain had also the glory to stand,—the law of humanity;—that law, without which valour is a crime and a curse, without which an army is the heaviest infliction that can fall upon a people, an instrument for the destruction of our species or the desolation of countries. The law of humanity ever distinguished the British arms, and till they were carried to Gurrucpore, gave immortal lustre to their exertions in every quarter of the globe. No man shall go farther than I will in maintaining obedience to orders, considered as a general principle; it is the vital essence of the military system; it cannot exist without it. If in real service I receive orders which I think absurd, I am bound to obey, and have only secretly to lament that I am under an absurd commander; if I am ordered to march to inevitable destruction, I must obey, because it may be expedient to sacrifice a part to save a far greater part when no other means will do it; but if I receive an order in which the service of a soldier is debased; an order that my conscience revolts at, that strikes at that sense which God has planted in my breast, to excite my duty to him through the medium of my duty to my fellow-creatures, here my idea of obedience ceases, and gives place to a principle more forcible and more just. There was an occasion on which I thought it a duty to myself to give to the public my sentiments upon military obedience. I did it in print, and with my name. I beg leave to repeat a short passage of what I then maintained, not from any partiality to my own words, but to show that my opinion is not the sudden result of the present case; it was then formed upon mature deliberation, and the most acute personal feeling, and it continues to be my professional creed. The words I refer to are these, "The man who obeys at the expense of his fortune, his comfort, his health, or his life, is a soldier; he who obeys at the expense of his honour, is a slave."

Sir, it has been my happiness to be supported in this principle by every British officer with whom I have conversed upon it. Were I to appeal to remoter times and other honourable services, I should also be justified by example. A memorable one occurs in the history of France. At the massacre of St. Bartholomew, the officer who commanded at Bayonne (I believe a marshal of France) received the king's order to employ the troops and the Catholic inhabitants to put to death all the Hugonots within his district. What was his answer? "I have communicated your majesty's orders to the persons mentioned in them; I have found brave soldiers and faithful citizens, but not one executioner. We join in supplicating your majesty to make use of our hands, our hearts, and our lives, in services that are not impossible." There is an instance of this generous spirit equally authenticated, that is still more striking, as the person was far less likely

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to possess it; I allude to a hangman himself. Some days after the same massacre had taken place at Lyons, the common hangman was ordered to follow some miserable victims, who had escaped, and to destroy them. How did this noble fellow answer? "No," said the brave bourreau, "I am not an assassin; when I work, it is in consequence of law and justice."

I trust no one will suppose I mean to insinuate any thing against the characters of the officers in general who have served in India. There are many, very many, in the company's service as well as in the King's, as highly worthy the distinction of their country as any who have bled for it in other parts of the world. My hon. friend who made the motion laments the absence of the officers of the army in India, members of this House, upon this occasion; I lament it also. But I cannot refrain taking notice of one of those officers who is present (colonel Fullarton) whose conduct has been illustrious, and whose sentiments I hope to hear upon this particular subject. The hon. colonel will pardon me for thus directing myself to him, but I confess a farther motive for offering him a testimony of my respect. Many years ago I warmly remonstrated in this House against the nomination of that gentleman to a high military rank without his having passed through the subordinate gradations. I thought it an injury to the army, and a bad precedent. I am now happy in an opportunity publicly to acknowledge that his services have justified the act. More enterprise and sound conduct, more ability in every branch of the military profession, has not been shown by any individual, and I rejoice that the country was not deprived of his exertions. The general concluded by expressing his hearty concurrence in the other arguments advanced by Mr. Francis.

The *Attorney General* said, that the articles of impeachment had been each naturally divided into three parts,—the narrative and introductory part, the illustrative and explanatory, and the allegations or facts charged. In the first of these, the fact now made the subject of debate, had been collaterally stated; but surely there was no necessity for the House, at present, to lose sight of the main charge, and engage in an investigation of the collateral part of the introductory narrative of any one article of the impeachment. The House would please to recollect that he was one of those who had not been willing that the trial in Westminster-hall should take place; but the impeachment having been voted and instituted, he professed himself extremely anxious, that it should proceed without interruption. If the House, while that important proceeding was going on, were to engage in a new and separate proceeding, they would find themselves entangled; and he could not better illustrate the force of his objection to the present proposition than by stating the effect of the event of the motion, in both of the different points of view in which it might be expected to take place. Supposing, for the sake of argument, that all the criminal facts alleged against capt. Williams should be established, and he should be put upon his trial for murder. He would, in that case, be sent before a jury, charged with one of the most capital crimes which the law knows, and his defence necessarily must be made under infinite prejudices in a case where his life would stand in imminent danger. Would that be acting humanely, or indeed even fairly, with respect to him, the humane spirit of our criminal laws considered, which are always more cautious, more liberal, and more humane in proportion as the offence is more heinous, the punishment more severe, and the execution of the sentence more certain if conviction takes place? Nor was this all. How would such a possible event operate upon Mr. Hastings? It would subject his defence to peculiar and great disadvantages; disadvantages with which he ought not to be loaded. There would then be the authority and weight of a criminal prosecution ordered against capt. Williams by the House, and a capital conviction in consequence. On the other hand, supposing that upon an inquiry, or even upon a trial directed as the result of an inquiry, capt. Williams should be acquitted; in that case, the managers of the prosecution in Westminster-hall would feel themselves much inconvenienced, and the defendant in a high court would gain what might also be termed an unwarrantable advantage from the circumstance. In every point of view, to set on foot a new proceeding on a subject of criminal accusation springing out of the charges now prosecuting in Westminster-hall, would be an embarrassing circumstance. It would be much better, in his opinion, not in any degree to violate the integrity

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of that proceeding, and it would be well worth while for those who were of opinion that the committee ought not to be agreed to, to recollect another ground of necessary caution; and that was, the usage of parliament in respect to criminal prosecutions. That House had heretofore studiously confined itself to misdemeanors and cases of high treason, but had never ventured (for, so he believed the fact was) to interfere between the two extremes of criminal offence; and that for the wisest of all reasons, because parliament would depart unnecessarily from the exercise of its proper function, if it interfered where the law courts were fully able and competent to administer justice to the subject. Upon the whole, he submitted it to the serious consideration of the House, whether it would be wise, expedient, or proper, for them to countenance the reproduction by piecemeal of the collateral and subordinate charges which were necessary to compose and constitute the impeachment now trying in Westminster-hall.

Major *Scott*.—Sir, I rise to offer a few reasons in support of the motion made by the hon. gentleman (Mr. Francis), but in so doing, I shall take the liberty to expose some of the most extraordinary misrepresentations that have ever fallen even from him. The progressive history of the business which has produced this motion, is of a very singular nature. In the year 1782 the narrative of the insurrection at Benares arrived in England. In one of the depositions in the appendix to that narrative, the circumstances of the execution of Mustapha Cawn are mentioned; but though a select committee of this House made two reports upon that insurrection, not one single reflexion was cast upon capt. Williams; not an idea was entertained then of a murder having been committed. But in one of those reports much pains were taken to prove that the rebellion, which was allowed to have existed in Gorrucpore and Baraitch, was not excited by the begum. It is stated in the report, that the country was inhabited by rebellious rajahs, who, for years, had paid little attention to the orders of government, and seized every pretext to withhold the revenues of the state, which were only paid by compulsion. A new ground is now taken, and it is asserted, that the insurrections were imputable to the oppressions of col. Hannay; though the fact is notorious, and was once admitted by those who now assert the contrary, that the country was in the utmost confusion long before he entered it.—When the articles were brought forward, then, for the first time, was this execution of Mustapha Cawn stated as a murder. The hon. gentleman says, the House have given it that name. Why will he not fairly argue the matter? He knows in his conscience, that the House have not done so; that they never saw the article. Let the merits, therefore, rest upon their own ground. But this charge against capt. Williams was not supposed to operate to his disadvantage, even in the opinion of the managers, for they summoned him to town to give evidence. The House had previously examined him at the bar, without asking a single question about Mustapha Cawn.—When the circumstance was mentioned in the gazetteer, and a very fair deduction made from it, then capt. Williams thought it right to appeal to the justice of the House. The hon. gentleman has represented the nabob of Oude, not as he really appeared to the officers employed in his service, an independent sovereign, but as something like Mobarek ul Dowlah, who is notoriously without any power, and a pensioner to the East India Company. To prove this, he has quoted letters written a year after capt. Williams's return to Bengal, from the nabob's service. Was this, Sir, the true state of the Nabob of Oude? Only mark in what a light he appeared during the time the hon. gentleman was in Bengal. In 1775, when his whole dominions were in a more distracted state than they have been at any subsequent period, the nabob applied to the governor-general, and council, for a number of British officers to command his troops. Has the hon. gentleman forgot that he was one of the majority at that time? Has he forgot that the board unanimously complied with his request? Has he forgot the orders under which those officers acted? They were directed to obey the nabob's order. They were struck off the strength of the Bengal army, though kept upon the general list; and it is expressly stated, that this was done not to interfere with the nabob's authority, but that the officers might be more under his command. Has he forgot that one officer was removed for the disobedience of the orders of the nabob, a very few months after the establishment was formed. In 1776, the na-

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bob applied to the board for col. Goddard to command the troops in his service; with this request the board unanimously complied—the hon. gentleman being still in the majority. In 1777, he made two applications for col. Hannay; stating, that the colonel had been very intimate with his father, Sujah Dowlah. In the last letter he expressly says, that he means to appoint col. Hannay to command three battalions in his service, and desires some other officers to be appointed under him. With this request the board unanimously complied; the hon. gentleman being a member, though not then in the majority.—These corps were established early in 1778; and in 1781 the command of one of the battalions became vacant by the promotion of captain Lumsdaine to the rank of major. The governor-general and council recommended captain Williams, who was in Calcutta at the time, and the nabob appointed him to succeed captain Lumsdaine in that command. His immediate commanding officer was col. Hannay, from whom he received his instructions. His battalion was stationed on the wild and extensive district of Gorrucpore, which Mr. Bristow said, long before col. Hannay entered it, "could hardly be said to be under the vizier's government, as it was held by zemindars, who paid little obedience to his authority, and discharged their revenues with great irregularity." And in the tenth report of the select committee, this is admitted to be a true account of the state of the country. He took the command in March, 1781; his head quarters were at Gorndiah, at a considerable distance from the fort of Gorrucpore; but in his instructions from col. Hannay he was informed, that there was a man in Gorrucpore closely confined, and under sentence of death. He was expressly enjoined to order a strong guard over him, because he had, in 1774 escaped from Fyzabad. Major Lumsdaine, a gentleman now in Great Britain, was in the command prior to capt. Williams. The prisoner, capt. W. never saw in his life; and though he has not the least doubt but that the orders for his execution, which he issued as coming from the nabob, through col. Hannay, were executed, he knows nothing farther about it, nor of the man, but from information that he received while in that country. There are, however, officers in England who do know who and what he was. He has been described to me as a notorious robber, a murderer, and an animal who lived by plunder and rapine; as it is perfectly well known many do, who frequent the wild and uncultivated frontiers of the vizier's dominions. The hon. gentleman assumes it as fact, that Mustapha Cawn was a man of consequence, because col. Hannay states, that he could raise 7 or 10,000 horse and foot. Yet the hon. gentleman must know, that when Bengal was subject to the annual incursions and depredations of the sincasses, a man without a jamma to his back could collect as many in a very few days. [Here Mr. Francis dissented.] Does he not know the fact?—then I am sorry for his ignorance. These enormities were stopped, it is true, before his arrival; but if he has at all attended to the history of the country, he need not be told, that under the native administration, and in the first years of our own, such depredations were almost annual. Every gentleman knows the nature of the inhabitants of the hills in Bengal, prior to their civilization in Mr. Hastings's government. In their own testimonial they say, that heretofore they lived like the beasts of the field; and such a people are those who, at this moment, inhabit the eastern frontier of Gorrucpore, from whence Mustapha Cawn issued to commit his depredations.—Capt. Williams was upon leave of absence at Lucknow, in August, 1781, when the insurrection at Benares happened; upon that occasion, the nabob, who is supposed to be such a cypher, ordered col. Hannay to march, with his whole force to Benares: col. Hannay, conformably to the orders he had received, directed capt. Williams immediately to assemble his scattered detachments, and to march with his battalion and guns to Abkerpore, where the colonel was to join him. He got, with infinite difficulty, to his head quarters; his detachments were separately attacked; the grenadiers under his own immediate command mutinied, and threatened to desert to the begum; and he was compelled to proceed to Gorrucpore, where it was not his original intention to go, and where he arrived on the 21st of September. On his route, and after his arrival, he received the several letters, which gentlemen now hold in their hands, Do they not convey, in the strongest terms, the critical state of the whole country, universally in rebellion; not, Sir, from col. Hannay's oppressions, but

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from their desire to resist the government of the nabob vizier, and actuated by the spirit that had actuated them long before the English came into the country? An hon. general has said, that capt. Williams ought not to have obeyed the orders he received. I will state the case truly as it is. Capt. Williams, a British officer in the army of the company, is appointed by the nabob vizier, an independent sovereign, to command a battalion in his service. He is placed under the immediate command of col. Hannay. In a fortress in the district in which he is stationed, a man was confined before he came to the command, who is declared to be under sentence of death. Every account that he receives induces him to give credit to it. He is ordered to join his commander in chief with all possible expedition. He first receives a discretional order as to Mustapha Cawn; but after that, he receives three positive orders to put him to death; his commander stating that such were the nabob's orders to him. He is told, at the same time that if Mustapha Cawn should get away, a whole province might be lost. He had positive proofs that 800 banditti were on their march to Gorrucpore, in consequence of letters written to them by Mustapha Cawn. He was pressed by his commander to make all possible expedition to join him, as the only step that could save them both from destruction. He had a march of 150 miles, through a country intersected by rivers, and covered by forests, and such a country hostile and in arms. Now, I would put it to the hon. general whether, under all these circumstances, he would or would not have obeyed the orders of the commander in chief, who stated to him, that they were the orders of the prince in whose service both were? Is it possible to suppose any motive but a sense of duty actuated capt. Williams? I am authorized to say, that he never had the slightest concern, directly or indirectly, in the collection of revenues; that he was not on terms of friendship with col. Hannay; that the whole of his short command, not more than ten months, was spent in altercations relative to the arrears of his sepoys, their want of cloth-ing, or the misconduct of the council of Gorrucpore; and this was carried to such a degree that col. Hannay declared the command was become so irksome to him that he would resign it. What possible motive could capt. Williams have? Where is the *malus animus* which constitutes the murder? The hon. gentleman has attempted to impose a belief upon the House, that the rana of Baunsi's son was hostile, because the head of the rajah, his brother, was struck off at Gorrucpore; but the fact is, that the rajah of Baunsi was a Hindoo, whose brother had been killed in a brothel; but Mustapha Cawn was a Mahometan, totally unconnected with Gorrucpore, but who had resided in the adjoining province of Baraitch. Before I conclude, I must take notice of what the hon. gentleman has said on the subject of imprudent friends doing often more mischief than avowed enemies. If the hon. gentleman had not so pointedly declared, that he meant no personal allusion, I should have conceived he meant to allude to me. But I will tell the House what I did: the moment I saw the gazetteer, I acted by my friend, as I hope he would have acted by me in similar circumstances, and I had the pleasure to receive capt. Williams's thanks for taking it up, as far as I could, in his absence; he posted to town, and the very day he arrived I gave notice to the House, by his express and earnest desire, that I meant to present the petition.

Mr. *Pitt* said, that although he agreed with his hon. and learned friend that the question was of infinite importance, as every question must be that concerned the institution of a criminal prosecution in that House, yet, in his opinion, there were certain grounds made out by the hon. mover, that rather inclined him to assent to a committee of inquiry; not meaning, however, to pledge himself to proceed a step farther unless very strong reasons indeed could be urged to prove the propriety and necessity of the measure that might be suggested, when the report should be brought down from the committee. There were certain positions in the speech of the hon. mover, to which he could by no means subscribe. In the first place, he never could agree, that the application of a party concerned was a sufficient reason for the House to exercise its inquisitorial power on any subject whatsoever. The merits of the case submitted to them could alone form the ground on which the House ought to decide, and in the present case the House had already decided, that they would not enter upon the consideration at the instance of capt. Williams, by having rejected his petition. The hon. gentleman,

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he owned, had in his mind, removed much of the objection that had weighed with him, and induced him to refuse his concurrence for one that the petition should be received. The hon. gentleman had stated, that he was in possession of proof of the fact alleged, which made a material difference from a vague unsupported allegation stated in a petition. The case, as it now came forward, appeared to call for some proceeding, and possibly the institution of a committee of inquiry was as proper a proceeding as could be adopted for the purpose merely of ascertaining the nature of the case; and, that done, it would remain to be decided what ought farther to be done. Every gentleman would agree with him, that in a criminal proceeding too much caution could not be used; and where a crime, however capital, was within the reach of the ordinary course of law, there not only could be no occasion for that House to interpose, but it would, in fact, prove a misapplication of its functions.

Mr. *Fox* observed, that so perfectly did his sentiments coincide with those of the right hon. gentleman, that he should not have risen had he not felt it necessary to take notice of the manner in which the hon. major had talked of the charges, and mentioned Mustapha Cawn, whom he had termed an animal. The natives of India were at least human creatures. However the hon. gentleman, and others of the company's servants, might think proper not only to consider them, but to treat them as mere animals, he hoped, in that House at least, that they would ever be considered of the same species with gentlemen themselves, and that their wrongs and injuries would be regarded as fully entitled to the attention of that House, as the wrongs of any other description of human beings. He knew not whether the hon. gentleman was the author of the paragraph in the Morning Herald or not, but he saw no extraordinary merit in it; and as to his declaration that the House had sent up charges to the Lords, which it had never voted, he believed that the managers of the prosecution instituted by that House against Mr. Hastings, were the first men who had ever been appointed by that House to carry on so important a proceeding, and were afterwards suffered to be libelled in the public newspapers, and in that House, as often as an opportunity offered, by one of their own members, with impunity. Whether a person capable of making it a constant practice to arraign the conduct of the House on so important an occasion, to misrepresent their motives, and to traduce the managers of the prosecution, ought to be suffered to continue a member of that House, was for the House itself to determine, and not for him. How far the declaration of the learned gentleman, that it was the province of the House, in criminal proceedings, to confine themselves to the two extremes of crimes, misdemeanors and cases of high treason, was founded on fact, he should not presume to determine; yet he could not avoid thinking that there might be cases where, when either the law was defective, or there had been a neglect of duty in the law officers of the Crown, it would be right for the House to go farther, and to interpose its authority, or at least to exercise its inquisitorial capacity, and by an investigation of facts to point out to the executive department, what steps ought to be pursued by them, to remedy the defect, and cure the evil.

Colonel *Fullarton*, having thanked general Burgoyne for the very flattering terms in which he had been alluded to by him, said that it was far from his intention to enter into any general discussion of the merits or demerits of the transaction imputed to capt. Williams. Those imputations, and the comments made upon them in some of the public papers, were undoubtedly of sufficient force to occasion the strongest impressions of disgust in the mind of any man who had a character to lose. To the honour of England be it said, there ever had been, even in the most barbarous periods of our history, a national abhorrence against every act of bloodshed; and no one could be surprised at the eagerness exhibited by capt. Williams to obtain an opportunity of clearing himself from such horrid imputations. In a question so immediately affecting the character of an officer of long service, he should be extremely unwilling to offer any observations of a personal nature, or that might have any tendency to wound the feelings of a man, who, if he had any feeling, must be already sufficiently distressed by the imputations under which he laboured. He should therefore, leave the act of which capt. Williams stood accused, to be condemned or justified on general or particular grounds, by gentlemen more intimately acquainted with the motives and circum-

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stances of the case than he was. His object was, to call the attention of the House to a point stated in capt. Williams's petition, and meant for his defence, very materially affecting the honour of the British army. On the part of capt. Williams, it had been confessed that Mustapha Cawn, who was supposed to have been taken in action, being a prisoner in the fort of Gorrucpore, was put to death by him, in obedience to repeated orders from his commanding officer, col. Hannay. It had been added, that it was not only his own opinion, but that of every military man with whom he and his friends conversed, "that if he had delayed the execution of col. Hannay's orders, he would have rendered himself responsible for all the consequences that might have resulted from such delay—that he would undoubtedly have merited, and possibly might have suffered death for such disobedience." In regard to the point of prompt and unreserved obedience to military order, I am ready to admit (said col. Fullarton) that it is the true principle and best quality of a soldier—that military obedience should know neither hesitation, difficulty, nor delay. But, let it be remembered, that this applies to the obedience due to lawful orders only. The articles of war, and the mutiny act expressly confine the duty of obedience to the lawful orders only, of a superior officer. It is unfortunately true, that the military laws of this country are in many respects extremely deficient. Sir Matthew Hale declares they hardly deserve the name of laws, and Judge Blackstone laments their imperfections. But, imperfect as they may be, still on this point at least, they are sufficiently explicit. We may bid adieu to the character and honour of the English service, if such a doctrine be admitted, that British officers and soldiers are bound to obey any unjust, illegal order, that a wicked or tyrannical commander may choose to issue. We may bid adieu to the safety of this empire, and particularly of our distant possessions, if military men be permitted to act on this principle. No order from a commanding officer, to commit robbery or murder, can possibly justify the commission of such acts. Thank Heaven the base doctrine of passive obedience to the will of despotism, even in a soldier never has been established in this country, and is now justly reprobated, and will speedily be exploded even in the arbitrary monarchies upon the continent. Even in governments hitherto despotic, soldiers now begin to feel that they were citizens before they were soldiers, and that they are not to be considered as mere passive instruments of oppression, but that the object of their institution is national utility and national defence. Thanks to the free and philosophic spirit of the times in which we live, it is neither visionary nor unreasonable to expect, that this kingdom, and other states, improving on the examples already exhibited by America, by Ireland, by France, and by the Belgic Provinces, may adopt the salutary system of rendering every subject a soldier for the purpose of national defence, and may entirely supersede the necessity of mercenary standing armies, who from the period of their institution in the days of Charles 7th of France, have seldom been employed for any other purposes than those of internal oppression and external offence. But without alluding any farther to the alterations which may possibly take place in the military system in this part of Europe, and confining myself strictly and literally to that which now exists in our military code, respecting obedience, I must beg leave, to enter my protest against any such doctrine as appears to be conveyed on the part of capt. Williams; namely, an idea that unqualified obedience is due to any the most cruel and apparently illegal order. Such doctrines may be admitted at the durbar of Delhi or of Oude. Such doctrines might have been approved in the presence chamber of Richard 3, when, "off with his head," was a sufficient order for executing the first subject of this realm. But, in these better times, in the year 1790, the words, "put Mustapha Cawn to death;" "It is the colonel's order that you put Mustapha Cawn to death," nay if he had added "It is the king's order that you put Mustapha Cawn to death," those words I presume will be found no justification for any act of bloodshed. Such an order cannot supersede the duty of remonstrance against the cruelty and illegality of the act, nor do away the operation of that superior law of nature and of nations, which forbids all civilized states from putting to death their prisoners of war. Let those gentlemen therefore who undertake the justification of capt. Williams rest his defence on more tenable grounds than that of implicit obedience to unwar-

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rantable orders. That they may be able to do so, I most sincerely wish, out of regard to the military name and character of this country, materially involved in this transaction.—He next solicited the forgiveness of the House for having intruded on them with these observations, excited chiefly by his apprehension of the very fatal consequences that might befal the unfortunate natives of Hindostan, if a commander could ensure obedience to any barbarous and bloody order that avarice or rapine might suggest. Let the House recollect, that in the course of Indian service, military commanders are frequently invested with the mingled powers and joint authorities of superintendants of districts, negociators with allied and tributary princes, and collectors of revenues. Now, if any order or purwannah, from any of those allied or tributary princes, no matter how unjustly issued, or how irregularly addressed, be sufficient authority for a British officer in command to issue orders of death against any Indian native, and if every military person under him be obliged to execute such bloody mandate, I should be at a loss whether most to deplore the degraded condition of the British officers and army in that quarter of the world or the outrageous violations and calamities to which whole provinces might be subjected by the cruel and rapacious disposition of any individual who might be entrusted with such unqualified and unwarrantable powers.

The *Solicitor General* felt it his duty most earnestly to intreat the House to proceed with great caution and tenderness in what they were then engaged, since the event might materially affect the constitutional security of the subject. He bade the House recollect that it was the province of the courts below to entertain prosecutions for criminal offences of every description whatsoever, misdemeanors and treason excepted, and to try the persons charged with such offences. That under the usage of those courts every man indicted for murder had his remedy, should it appear, upon his trial, that he had been unnecessarily indicted, should the prosecution turn out to have been malicious, or should there be sufficient ground to warrant a supposition that a private purpose had been the prosecutor's motive and not a regard to public justice. The man so injured might bring his action for calumny, and a candid and considerate jury would doubtless award him liberal damages. Would that be the case with capt. Williams, who in a manner which did his feelings more honour than it did his prudence or discretion credit, had confessed that he put Mustapha Cawn to death, if the House should institute a proceeding, which might possibly end in putting him upon his trial for murder? They would thus send him to that trial with all the weight and authority of that House upon his back, which was enough to crush capt. Williams, or any such humble and insignificant individual as himself, to the earth. Supposing that capt. Williams, if sent to his trial under such circumstances, should have the good fortune to be acquitted, against whom would he have his remedy for the very serious injury he had sustained? He could not prosecute that House; he could have no remedy whatever. The solicitor general begged the House not to consider him as the advocate of capt. Williams, but as the advocate of the constitutional security of the subject;—a consideration infinitely more important than any thing personal to capt. Williams or to any individual whatever. The hon. mover had affirmed that he was in possession of proofs of the fact, and was sure he could convict capt. Williams of murder. If he was confident of what he had asserted, why would not he, in a manly way, stand forward, and encounter the risk of engaging in a prosecution for which he must be personally responsible. Why should he endeavour to shelter himself under the authority of that House? Let him reflect on the danger of the precedent he had called upon the House to establish; let him consider for a moment the hardship done to capt. Williams; let him look at the case in all its serious consequences, and then let him ask himself whether he would choose to incur the imputation of acting so unjustly towards capt. Williams, so imprudently with respect to the House? He did not think the hon. gentleman had the most distant intention of acting unfairly by capt. Williams, or inexpediently by that House. The hon. gentleman had declared that he was actuated solely by principles of public justice, and therefore he believed him; but he most earnestly cautioned him of the danger of the doctrines he had laid down, and of the mischievous consequences that might arise from leading the House into a precedent, which they themselves

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might for ages lament. He meant not to be understood, that in no criminal cases whatsoever, except in cases of misdemeanor and treason that House ought to interpose. There might arise such cases, but they must be extraordinary cases indeed: and the impossibility of proceeding in the common mode by the courts below ought to be made evident, before the House adopted any proposition to take a criminal prosecution on themselves. Feeling these circumstances most thoroughly, and feeling at the same time the deep importance of the motion, in respect to the degree in which it might affect the constitutional security of the subject, that first principle of the criminal jurisprudence of the country, he had great doubts with regard to the propriety of going into a committee at all, and therefore he should hold himself bound to give his negative to the motion.

Mr. Secretary *Grenville* observed, that notwithstanding his general approbation of almost every principle laid down by his hon. and learned friend, he should vote for going into the committee. He meant not, by consenting to go into the committee, to pledge himself to vote for any specific proposition which might be moved as the result of that inquiry. The case was cleared of much of its obscurity by the lights which the hon. mover had that day thrown upon it, and he thought it became the House to investigate the facts on which it rested, not with a view to institute any criminal prosecution themselves respecting it, but so to dispose of the subject, as the nature of the facts to be inquired into should suggest. With regard to what had been said of the danger of that House unnecessarily interfering in cases of criminal prosecution, it would be highly unbecoming that House to introduce a new principle into the constitution, or to adopt any measure which was in the most distant degree likely to affect the criminal jurisprudence of the country. He, therefore, must differ from the right hon. gentleman (Mr. Fox) in regard to the principle which he had laid down, that that House ought to interfere, under certain circumstances, in certain cases between the two extremes of misdemeanors and treason. The proper province of that House, in all matters of criminal proceeding was, to leave civil crimes to the cognizance of the courts of law, and to confine themselves to crimes of a political and constitutional nature. Hence he conceived that the House had, for a long series of years, kept to cases of misdemeanor and treason, as the sole objects of their attention in respect to criminal proceedings; and they had done this obviously with a view to the distinction which he had just stated, of avoiding any interference with civil crimes.

Mr. *Fox* said, he had not laid it down as a principle, that the House ought to take up criminal proceedings themselves in any cases other than those of misdemeanors and treason, but merely where there was apparently a defect of duty arising from negligence in the Crown lawyers (which he was far from stating to have been the case in the present instance), to exercise their inquisitorial functions, and institute an inquiry.

The *Master of the Rolls* said, that the subject under discussion, together with the motion made by the hon. gentleman, was of such infinite importance, that he should feel it a matter of great difficulty how to act respecting either. They undoubtedly required very mature consideration, indeed, before the House came to a decision respecting them; and therefore, if he were compelled to give his vote on the motion that evening, he must give his negative to the institution of a committee, because, as the papers on which the motion was grounded, had only that day been laid upon the table, and he had not read one of them, he could not venture, unprepared as he was, to offer his sanction to a measure which might involve the House in much future embarrassment, and tend to subvert the essential principles of justice. With regard to a prosecution for murder, supposing, for the sake of argument, that the putting Mustapha Cawn to death was a murder, he had much doubt whether the single act of parliament, under which it was possible to try a British subject for a murder committed beyond the seas, and without the realm, would extend to the case in question. The act he alluded to was, 33d, Hen. 8th, which was passed for the better prosecution of murders, both within and without his majesty's dominions. How far the putting to death a person, not within the king's peace, in a country over which the British Crown and laws had no jurisdiction, could be rendered amenable to that statute, he was not prepared to say; but he had very great doubts whether the person so committing a murder, could be tried for it at all, agreeably to the laws of

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England. His hon. and learned friend, however, who had lately spoken, and whom he agreed with as to every legal principle that he had laid down, was a little mistaken in supposing that any individual could become a prosecutor, on his own motion, in a case of murder committed without the realm, and that such individual had nothing to do but to go to a grand jury with a bill of indictment. The fact was, that the statute to which he had alluded specially enacted, that before a prosecution for a murder committed on any of his majesty's subjects abroad could be commenced, the individual must state his facts to three of the lords of the privy council, who, if the facts appeared to warrant such a proceeding, were directed by this act to authorize the individual to proceed with a bill of indictment before a grand jury. The master of the rolls reasoned upon the strong necessity of proceeding in a case like the present with great caution. He reminded them, that it would be impossible for them to examine evidence on both sides, without coming at capt. Williams's defence; and he called upon their humanity to recollect under what disadvantage they would send him to his trial with his defence disclosed. It was so opposite to every principle of justice, that he was sure the House need only be reminded of the extent of the consequences that they might themselves be implicated in, if such a committee as the question proposed should prematurely be appointed, to make them readily concur with him in a motion to adjourn the debate for a few days. Long as the debate had already lasted, still the adjournment which he had suggested would prove a desirable circumstance. It would give gentlemen who had already delivered their opinions, time to re-consider those opinions, and if, upon mature consideration, they should find them to be rash and erroneous, an opportunity to retract them; and it would afford other gentlemen, who, like himself, had not sufficiently considered the subject, time to enable them to decide what might be the proper steps to take in a matter of such serious importance, time to peruse the papers on the table, to make themselves masters of the whole transaction, and to come forward with opinions matured by deliberation, and such as they could rely upon. Under these considerations, he would move, "That the debate be adjourned to this day se'nnight.

Mr. *Pitt* sincerely assured this House, that when he rose to second the amendment, the principles which he had stated in his former speech were not at all weakened by what had fallen from his hon. and learned friends; but the subject was of infinite importance, and ought not to be voted without ample deliberation. At the same time he was free to acknowledge, that the reasons which had been alleged for going into a committee, were not very likely to be weakened by the delay proposed. With regard to what had fallen from his hon. and learned friend, who had spoken last, if his doubts should be realized, and it should turn out that the only act that could be supposed to apply to a murder committed under the circumstances of the case in question, could not be brought to bear upon it, and that there was no remedy within the reach of the ordinary course of law which could apply to so heinous a crime, though it did not necessarily follow that parliament must take upon themselves to institute a prosecution for murder, it certainly might be considered as a strong reason for that House to inquire into the facts, from a knowledge of which alone, the House could enable itself to judge how far so material a defect in the criminal law of the kingdom might require a legislative cure with regard to the time to come. He therefore had consented to the motion, not as giving a pledge that he would consent to any subsequent proceeding which might be proposed, but merely in order to get at the facts, to understand the merits of the case, and to ascertain whether the House would be justified in instituting any subsequent proceeding.

Mr. *Burke* having premised that it might seem ungracious to offer any objection to a question of delay, grounded as the present amendment had been, added that, in fact, he had been ready to agree to his hon. friend's original question, because he considered that as a question of delay; for, what was it but delaying any proposition of a direct and decisive nature, by moving that the House should first appoint a committee of inquiry, which was certainly the most deliberate mode of proceeding that could be suggested, in a case of so singular and so important a nature. The hon. and learned gentleman had said that he had not yet read the papers on the table. This was the first time that he had recollected it to have been assigned by any member of that House, as

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a reason for giving his negative to a motion, that he had not read the papers on which it was grounded, and which the House had upon their table. He had, for his part read the papers. He understood the case, and therefore he was ready to give his vote for the motion for the very opposite reason to that which induced the hon. and learned member to propose a farther delay. An hon. and learned gentleman had said, that any individual could move a prosecution of himself, in a case of murder abroad, to which a prosecution was clearly applicable; and another hon. and learned gentleman had contended, that no individual could move it, but that he must go to three of the lords of the privy council, and they must authorize it; so that between the one and the other, they had completely cut up the utility of the offices of attorney and solicitor general, and rendered them mere sinecures. Why could not an attorney general institute a process of himself. He might do it, without being liable to an action for defamation in case he failed, because it was known that the king paid no costs. But the legal gentlemen had looked at the question solely with a view to a prosecution for murder, and had argued that the House of Commons could only prosecute for the extremes of crimes, treason, and misdemeanors. The assertion was certainly but generally stated; he knew not how true it was, and whether that House was not bound in duty to prosecute, under such circumstances, for other crimes between those two extremes. That it ought not every day to be engaged in criminal prosecutions for every different species of crime, for robbery, burglary, and murder, he well knew; because in that case the criminal jurisprudence of the country would be subverted, and the functions of that House destroyed. The motion, however, was a motion of greater latitude and extent, than a mere question of criminal prosecution. It referred to a new case: a person came to that House, and voluntarily confessed himself guilty of homicide, and he justified the fact. He says, "Mustapha Cawn's head was cut off, and I am the man that did it." But then he adds, "I am ready to justify it on the ground of obedience to orders from my superior officer." This gave rise to a new consideration, and that by no means unimportant, namely, how far the military law warranted an obedience to orders in certain cases. They had already heard the opinion of two men of high military character on the subject. Blackstone said, the military law wanted a revision. Perhaps the subject of debate, might produce that revision, and thus prove the cause of an amendment in the military law, highly conducive to the honour of the national character, the happiness of the subject, and the good of the service. Such effects might, in fact, arise from a careful revision, and consequent amendment of the military law, as would render the army less unpopular, and less an object of national jealousy.—Mr. Burke next adverting to major Scott's expression, that Mustapha Cawn was an "animal," observed that, for his own part, he wondered not at some of those who had been in certain situations in India, treating the natives with so much barbarity. Having once brought themselves to consider them as animals, it was not any matter of surprise that they should treat them worse than other animals, because by treating other animals cruelly, they could have no hopes of acquiring any advantage whatsoever. From an ox or a horse, nothing was to be obtained by ill-treatment; when once, therefore, men had brought themselves to consider any of their own species as animals, it was natural for them to treat them worse than they would treat an ox or a horse. Those beasts naturally excited no strong sensations, but men considered as animals, gratified some passion, or answered some end. Mustapha Cawn, however, was not of the low rank which the hon. major had described. He was clearly a man of considerable power, and of some distinguished rank. His being a Mahometan did not prove the contrary. In all the writings concerning him, he was termed a rajah; and many rajahs had turned Mahometans, when Mahometan princes had possession of the country, and yet retained their rank. Besides, the very name of Cawn spoke him to be a person of consideration. Cawn was never the name of people of the lower order; it signified lord, as rajah signified prince or ruler. The managers of the prosecution against Mr. Hastings had frequently been abused without doors, and sometimes within; but it was a matter to be rejoiced at, a matter of triumph, that the very first complaint which had been brought forward, proved their care, and established their veracity. Finding it necessary to introduce the mention of a fact of a very atrocious nature in one of the articles of impeachment,

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and to mention the name of an individual in the narration of that fact, they had done it with so much caution as to fix no imputation positively on any man. In stating that Mustapha Cawn had been put to death, they had said the fact was committed by capt. Williams, or some other English officer. Capt. Williams had now come, of his own accord, acknowledged the fact, and avowed himself the perpetrator of it. This was so strong a confirmation of the truth of the charge, and the care of the managers, that he must again and again rejoice in it.

Mr. *Anstruther* concurred with all the principles of law laid down by the solicitor-general, but doubted their applicability on the present occasion. By going immediately into a committee the House would be able to know what the facts of the case really were, and to judge how far his learned friend's principles would apply. He reasoned on the peculiar nature of the facts stated by the hon. mover, and upon the extent of our laws, in cases of murder and other crimes, which he stated to be a design to regulate the principle of revenge in the human breast, for a real or a supposed injury; and hence he drew an argument, that possibly in the present instance none of our laws would apply; and therefore the interposition of that House might be necessary. In ordinary cases, the next of kin felt revenge for the loss of his relation, or one friend for the loss of another, but in the instance before them there could be no person supposed to act from such a motive. Mustapha Cawn had no relation in this country to be actuated by a principle of revenge for his murder—no friend to call for justice on his murderer. Public principle, therefore, must stand in the room of private feeling, and a due regard to the national honour must be the only stimulus to pursue the proper path to justice. For his own part, he had purposely avoided going into the case itself, either the charge against capt. Williams, or the captain's justification, that he cut the man's head off in compliance with the orders of his commanding officer. How far the one or the other was founded, must rest altogether on the facts which upon the inquiry would necessarily be obtained, and therefore he was ready to go into the committee immediately; but if gentlemen differed from him in that opinion, and wished for a few days more time for consideration, he should submit to their inclinations.

Mr. *Mitford* expressed great doubt of the propriety of that House interfering at all in the case, and contended, that if any gentleman imagined that the House could try capt. Williams, or any other individual for murder at their bar, they were most grossly deceived. He stated the danger and impropriety of the House taking cognizance of any but political crimes, and urged the necessity of proceeding with caution in a matter of so delicate a nature. He mentioned several of the rules of practice in the courts of justice, in cases of murder, to show how little gentlemen were aware of the difficulties attending prosecutions for that crime, which arose chiefly from the care taken, under the administration of the laws of the land, that no subject should be unnecessarily put upon his trial for an offence of so heinous a nature, nor without the strongest presumption of his criminality. If the motion for a committee had been pressed upon the House that evening, he should have felt himself under the necessity of giving it his negative; he was glad therefore that the debate was likely to be adjourned.

Major *Scott*.—I desire to say a few words in reply to the observations that have been made. I take the facts stated in capt. Williams's petition to be strictly true; and therefore the epithet that I applied to Mustapha Cawn is perfectly correct. He was a man who lived by murder, rapine, and plunder, upon whose head a reward had been put for many years before he was taken. Prior to Mr. Hastings's government, the inhabitants on the frontiers of Bengal were, as they now are, on the confines of Barach and Gorruckpore, almost in a state of nature; they lived by murdering and plundering the inoffensive inhabitants of the plains. They thus describe themselves in the testimonial which they transmitted last year in favour of Mr. Hastings:. "We therefore represent, that we formerly lived on the hills, like the beasts of the forests, and during the government of Mr. Hastings, became like other men, and the qualities and honours of men were instilled into us. Formerly our means of subsistence were no other than those of plunder and rapine, and we existed with the greatest difficulty; but now, by the wise conduct of that gentleman, we live at ease, and, like others, are happy, and satisfied with the Company."

Mr. *Francis* said, he should not oppose

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the adjournment, since so many learned gentlemen, wanted farther time to consider the subject, though he yielded to it with reluctance. He denied that he had ever said he was able to convict captain Williams in a court of justice. He had said that he himself was convinced, and he had stated the grounds of his conviction. He acknowledged that the solicitor general, in what he had addressed directly to him, had expressed himself in very civil terms, but by no means with that candid and favourable construction, which he thought were due to the fair and honest part he had taken in a business of public importance, in which he had no greater personal concern than any other member. The learned gentleman had exerted his utmost efforts, with very little credit to his learning, to engage him in a prosecution, for the generous purpose of exposing him to a subsequent action for damages, on a presumption, most liberally taken for granted by the learned gentleman, that it would turn out a malicious prosecution. The great hardship that would be heaped upon capt. Williams, if the prosecution should be taken up by the House, the learned gentleman had lamented with many pathetic airs of social tenderness and fellow-feeling. Now, Sir (said Mr. Francis), I do not wonder that the learned gentleman should forget the principal fact in this transaction, for facts, I know, are not in the learned gentleman's department. He takes no notice of capt. Williams's being a party to the motion, and that the hardship, if there were any, would only be the consequence of a thing done with his own hearty concurrence and desire. But I confess I do wonder that the learned gentleman should have so little of his own law in his memory, as not to remember, that one of the most trite and common maxims of law is *Volenti non fit injuria.*

The question of adjournment was then agreed to.

March 29th. The order of the day being read for resuming the adjourned debate on the motion, "That a committee be appointed to inquire into the circumstances attending the execution of Rajah Mustapha Cawn, and by what authority the said Mustapha Cawn was put to death,"

Mr. *Francis* said, that as the act of 33d Hen. 8th, and the 45th clause of the 24th of his present majesty, must have a considerable share in the debate of this day, it would be proper that they should be first read; and they were, upon his motion, accordingly read as follows:

Act of the 33d Hen. 8th. cap. 23.—"Be it therefore enacted, &c. that if any person or persons being examined before the king's council, or three of them, upon any manner of treasons, misprisions of treasons, or murder, do confess any such offences, or that the said council or three of them, upon such examination, shall think any person so examined to be vehemently suspected of any treason, misprisions of treason, or murder, that then, in every such case, by the king's commandment, H. M. commission of Oyer and terminer, under his highness great seal, shall be made by the chancellor of England to such persons, and into such shires and places, as shall be named and appointed by the king's highness, for the speedy trial, conviction, or delivery of such offenders; which commissioners shall have power and authority to inquire, hear, and determine all such treasons, misprisions of treasons, and murders, within the shires and places limited by their commission, &c., in whatsoever other shire or place, within the king's dominions or without, such offences of treasons, misprisions of treasons, or murders, so examined, were done or committed, and that in such case no challenge for the shire or hundred shall be allowed."

Act of the 24th George 3rd, cap. 25, clause 44.—"That all his majesty's subjects, as well servants of the said united company as others, shall be, and are hereby declared to be amenable to all courts of justice (both in India and Great Britain) of competent jurisdiction to try offences committed in India, for all acts, injuries, wrongs, oppressions, trespasses, misdemeanors, crimes and offences whatsoever, by them or any of them done, or to be done or committed, in any of the lands or territories of any native prince or state, or against their persons or properties, or the persons or properties of any of their subjects or people, in the same manner as if the same had been done or committed within the territories directly subject to, and under the British government in India."

The Master of the Rolls moved also, as a necessary explanation to the last act, the reading of the act of the 13th of his present majesty, which was the foundation of the act of the 24th.

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The *Speaker* observed, that according to the rule of the House, no gentlemen who had spoken to the question during a former day, could again speak on the debate. He desired to know whether in the present instance, it would not be more convenient to dispense with the rule, the debate having been principally adjourned in order to afford time for a farther consideration.

Mr. *Burke* remarked, that in particular cases, as in the present, where much explanation might be necessary, speaking more than once, instead of retarding, would probably tend to dispatch; for that reason he had before contended for the propriety of going into a committee, where gentlemen could, without a violation of the rules of the House, speak as often as they thought proper.

The question being read from the chair.

The *Master of the Rolls* said, that as he did not think the subject had received that consideration which its importance deserved, he had expressed his wishes for additional delay. He retained his former opinion: he considered going into a committee as likely to produce no other consequences than such as would be injurious to justice; and, for that reason, he still objected to any inquiry. He contended that there was no sufficient evidence for the prosecution; and that if there was, the acts quoted did not empower our courts of justice to take cognizance of the offence. The act of Hen. 8th was the only statute that gave any power to try for murder committed without the realm, and that did not authorize the trial of capital offences committed out of the English dominions, unless upon British subjects; but if the House thought that by that act, capt. Williams could be prosecuted, it still operated against the going to a committee, as the House could, without such inquiry, vote, if they thought proper, such prosecution directly, upon the grounds of the information already before them. He saw but three motives for which the inquiry could be insisted upon, the first to prosecute for a murder by a bill of attainder, or to proceed by impeachment for a misdemeanor, or for the purpose of remedying a supposed defect in the law. The crime charged against capt. Williams was a murder, or it was nothing; and he much doubted whether the act of Henry 8th, applied to this case, would be countenanced by any of our courts, seeing that from the time of passing that act to the present day not a single individual had been tried under it. He did away all thoughts of proceeding for a misdemeanor, and declared that though he did not mean to say, nor was it at all necessary that he should, what he thought of the offence, he did not conceive that it called for the application of an *ex post facto* law. Capt. Williams was not the principal in the affair, for which, if criminal, col. Hannay, who was dead, had most to answer; capt. Williams, he had no doubt, acted as he thought right; he, however, would not justify the act, but did not think it of sufficient consequence to call on the interference of that House. If the House were inclined to remedy the defects of those acts, and give such power to our courts as would enable them to punish similar offences in future, they could make the necessary new law without any reference to capt. Williams, whom he sincerely wished had been better advised than to have brought his case before that House, which had nothing whatever to do with it.

Mr. *Francis* said, he had never urged the request or petition of capt. Williams as a motive to the House to inquire into his conduct; all he had done was to state it fairly among his own motives for resuming the business.

Major *Scott* said:—Sir, I affirm, in the face of the hon. gentleman, that it was at capt. Williams's request alone that he came forward. I affirm that, when first applied to, he declared he had no idea of making any charge: and Sir, when he stated the other day what passed between him and capt. Williams, he ought to have told all that passed. The hon. gentleman mentioned the other night the case of the Armenians, in the time of Mr. Verelst and Sujah Dowlah; but is there one point in the two cases that can bear a comparison? The case of the Armenians was this: these men were not subjects of Sujah Dowlah, but servants of a Mr. Bolts, and were employed by him in his commerce in Oude. General Smith, the commander in chief, represented to Mr. Verelst, that the residence of these men in Oude might be attended with dangerous consequences. Mr. Verelst then desired Sujah Dowlah to send them prisoners to Calcutta, which he did; but what had this to do with the distribution of justice in his own dominions, to his own subjects? The hon. gentleman next

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made a motion, that the company should send to this House a copy of the purwannah for putting Mustapha Cawn to death. Sir, the hon. gentleman knew that this was a mere farce; he knew that no copy of any purwannah was ever sent from Oude, not only not to the India house, but not even to Calcutta. He knows that the government of Bengal never did interfere in the administration of criminal justice in Oude. If his memory is so loose, I will bring his own hand-writing, to prove it. In 1776, when the hon. gentleman was in a majority, the nabob Asoph ul Dowlah desired that col. Goddard might be appointed commander in chief of his forces, which request the council complied with. The nabob soon after this granted him a warrant for holding general courts martial. The colonel wrote to the board, telling them that he was about, under that authority, to try two men for murder, and desired to know if he should send the proceedings to them. The council answer, "We do not think it necessary for you to transmit copies of your proceedings to us for our information, as the nabob is the only fountain for the distribution of justice to his own subjects." This letter the hon. gentleman himself signed, yet he would now persuade the House, that justice is administered in Oude through the medium of the government of Bengal. Capt. Williams has received a letter from major Lumsdaine, which gives exactly the same account of Mustapha Cawn that capt. Williams did, and affirms, that he delivered him over to capt. Williams, under sentence of death, in March 1781; that he was a man who had lived for years by rapine and plunder. I would put it to every officer, whether with a country universally in arms, and in rebellion, he would have ventured to disobey the orders of his commanding officer, particularly, when he was informed that the escape of the man might be attended with the loss of the province? By the usage of every service upon earth, was he, or was he not, to obey his commanding officer? Since this debate commenced, I have industriously gone through the transactions of the late war in America, and I scarcely found a page, without meeting instances of British subjects, and Americans, having been put to death without any form of law, though strictly consonant to the usage of war. The gentlemen opposite allow that Gorrucpore, like America, was in a state of rebellion, and universally in arms. If, under these circumstances, capt. Williams is to be censured for obeying his positive orders, there must be an end of all discipline in time of war, and rebellion.

Mr. *Burke* having premised that, in his opinion, the hon. and learned gentleman had reduced the question to a mere question of prudence, and had stated his objections formally on the ground of the supposed inapplicability of the 33rd Henry 8th, added, that he had also taken another objection; and this was against proceeding by bill of attainder. In short, the hon. and learned gentleman had carried his prudential motives so far, that he had advised the House to have nothing to do with a question in which the national character, and possibly, the existence of our possessions in India, were deeply involved. In such a question, affecting our humanity, our charity, and the laws of nature and of nations, would that House hesitate to proceed? When a case of so flagrant a nature as the atrocious murder of Mustapha Cawn, for so it was in his opinion, presented itself to the consideration of that House, would the Commons of England turn a deaf ear to it? Let the House recollect the manner in which the matter came before them. They had not their way to search out, they had not merely an insinuation of the atrocious facts, but the particulars had long been on their Journals, and though the party who had committed the crime was before unknown to them, he was no longer in concealment. He had rushed voluntarily and daringly into their presence. He had proclaimed his guilt, avowed his criminality; nay more, he had justified it. The criminal came boastingly to that House, and cried aloud, "Adsum qui feci; in me convertite ferrum!" The criminal cries, "I come for satisfaction; I claim it at your hands, as an injury offered by yourselves. What you denominate a murder, I consider as a merit; and I insist on your acknowledging it to be such." They were called on, therefore, indispensably called on, to justify the act of mentioning the name of a lesser criminal in the prosecution of a greater. The House ought, therefore, for their own dignity and honour, to go into an inquiry, to see whether they had or had not been guilty of an injury to the character of capt. Williams? If they had, it was their duty, and would be honourable in them, to declare it; it was a

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decision which they could not with credit avoid; the business was before the public, who called for a decision on the homicide avowed and obtruded upon them, and on the House, which could not dissemble their knowledge of such homicide; he who had committed it having triumphantly avowed it, and dared an inquiry.—Mr. Burke proceeded to maintain, that Mustapha Cawn was murdered in cold blood; that he was a great man; and that he was murdered in prison, where he was intitled to protection. It was plain, he said, that Mustapha Cawn, by the statement of capt. Williams himself, had been killed in cold blood—that he had been killed with deliberation, and that no legal justification, under a regular process of law, was offered to be set up for such homicide, a homicide under circumstances, which, he was confident, no one would presume to say was not a murder. In aggravation of this murder, it was to be remembered, that the murdered man was of great consequence in his country; that he was, though stated to be a robber and plunderer, and a man of no consequence, able to raise from seven to ten thousand horse and foot; a man capable of raising such a force must be a prince of great consequence, which, however, his title imported. He had been called both Rajah and Cawn, one signifying rank in the Mahometan, and the other in the Hindostan language, a person of great distinction. He contended strongly, that though a murder, whether of a poor or rich man, was equal in the sight of Heaven, and ought to be punished with death, yet the murder of a great, powerful, and rich man was an aggravation of the crime, as greater evils might be expected to follow from it. Those who stood forward to the conviction of such criminals as capt. Williams, were stigmatized with being actuated by a principle of revenge; it was however, a principle of revenge that was noble, and with which he hoped always to see a British House of Commons actuated; for it was a principle of sensibility to revenge the wrongs of those who were rendered incapable of revenging their own. He condemned the justification set up of Mustapha Cawn's being a prisoner, which, instead of a palliation, was, in his opinion, an aggravation of the crime; a prisoner being a sacred character whom the laws were bound to protect. The laws of England, so far from presuming guilt in a prisoner before he was convicted, considered every man who died in a gaol as murdered, and the coroner was always obliged to sit on the body to inquire into the fact of his death. Mustapha Cawn died in a prison, under the charge of a British officer; and that House, as the grand coroner of the nation, ought to inquire into the circumstance of his death. But there were still stronger reasons to be urged for an inquiry; he understood that the perpetrator of this homicide, which he had proved to be a murder, was a justice of the peace; it was the duty of the House, therefore, when they found persons holding such opinions as he did, filling important judicial capacities, to enter into a minute inquiry; the consequence of such opinions ought well to be considered. He wished to put a case that might happen, to show the necessity of an inquiry, when such persons as capt. Williams were in the commission; if a soldier guarding a prison were to put to death a prisoner under his care, and were to be brought for such murder before justice Williams, and to say in his exculpation, "that he had an order for so doing from his commanding officer, who had heard from some person, who had heard from another, and so on, that the prisoner was under sentence of death," capt. Williams must, according to his conscience, acquit the soldier.—Mr. Burke next adverted to what the master of the rolls had said of col. Hannay being the principal, and observed, that the law knew no distinction in murder, but considered all as principals. If the laws were insufficient, in the present case, to bring capt. Williams to punishment, which, however, he did not think, he should have expected that the law officers in that House would have been the first to have instituted a prosecution, or to have proposed a remedy which would guard hereafter against any future capt. Williams; but he was sorry to observe that, on the contrary, they always appeared very reluctant, and seemed rather desirous, when the law was impotent, that it should remain so. Impotent laws, he considered as a great oppression and tyranny on the people. He recapitulated his reasons for pressing the necessity of inquiry, and said a stronger case could not be brought forward than the present, where the person who had committed the murder was to be considered in two lights; first, as a magistrate holding the most horrible opinions that could be entertained, and secondly, as a

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soldier, and consequently as a person in whose hands, in both capacities, the legislature had placed the civil and martial sword, and whose duty it was to see them exercised for the benefit and protection of the people, not for their oppression and destruction.

Mr. *Vansittart* contended, that the procedure of capt. Williams was perfectly justifiable, on account of his indispensable obedience to the commanding officer, whose duty it was to execute the orders of the nabob of Oude, who undoubtedly had the power of sentencing to death, and ordering for execution, any of his subjects.

Mr. *Ryder* saw no necessity for a committee. If the House were convinced of the propriety of a prosecution, they would proceed immediately.

The *Attorney General* said, that Mr. Burke had cast a harsh imputation on him and his colleague; the right hon. gentleman had been pleased to accuse them of neglect for not having prosecuted capt. Williams, when it had been only a few days since that the first grand and material fact on which the whole transaction turned had come out, namely, that capt. Williams was the man who struck off Mustapha Cawn's head. It was not the duty of those who stood in his situation to go about seeking for materials to furnish a prosecution against any of his majesty's subjects for a capital crime. It was the duty of others to collect such materials, and when they were submitted to an attorney general, he was then, to the best of his judgment, to consider whether it would be for the honour of the country, that the prosecution should be instituted. In the present instance he was not of opinion that it would be any benefit for the inquiry to proceed, because, whatever might be capt Williams's offence, he was satisfied the law of the country could not reach it. The charge of neglect, therefore, wantonly urged against him and his colleague, was unjust, and the more unjust as it came from a gentleman professing to be the advocate of justice. His learned friend (the master of the rolls), said, that the act of the 33d of Henry 8th spoke of the murder of a British subject by a British subject. It undoubtedly did so, and as not a single instance of a prosecution, instituted on that act, against a British subject for the murder of a foreigner in a foreign country, was to be found, how could he, with any colour of justice, proceed with such a prosecution? or how could he put into the indictment, with any hopes to be able to sustain it, that the person alleged to be murdered, was in the king's peace, when he was not his majesty's subject? And without those words it would be impossible for him to proceed. If the letter of the law was ever deviated from, and fanciful expositions of penal statutes proceeded upon, there was an end of the safety of the subject. In the present case the alleged homicide was committed in 1781; and the 24th of the present King did not pass till 1784; it was impossible, therefore, to apply that act to the case of capt. Williams, even if it had contained any reference to such a description of crimes, which it certainly did not. There were two sorts of crimes, there being a manifest distinction between moral crimes, and the crimes against the law; in the case of capt Williams, his might be deemed a moral crime, because, if he had been ever so guilty of homicide, the case was not a crime against the law of this country. The attorney general alluded to the observation of the master of the rolls, that capt. Williams had not been the principal in putting to death Mustapha Cawn. Col. Hannay, who was dead, had been more to blame than capt. Williams. He was aware that there were no accessaries in murders, but that all were principals; as far, however, as appeared to him, he did not think capt. Williams's intentions were bad, or that he could fairly be accused of premeditated murder, though he thought him much to blame. He believed that capt Williams, actuated by a mistaken sense of duty, had inadvertently done that which a man of more recollection would not have executed.

Mr. *Fox* heartily wished the right hon. and learned gentleman had left off a few minutes sooner, because he had hoped to have had the satisfaction of knowing, that the hon. gentleman under the gallery had made such a defence for capt. Williams as no member, but a man polluted by residence in India, would have thought of. The hon. gentleman had supposed the will of a prince to be the arbiter of the fate of all his subjects, and that he had the unlimited right to put to death whoever he thought proper. The hon. gentleman had candidly laid out of the question all the collateral circumstances, and, without thinking it at all material

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whether Mustapha Cawn was under sentence of death or not, whether he was a robber or a rajah, he had concluded that it was justification enough for capt. Williams that he understood it to be the order of the nabob of Oude that Mustapha Cawn should be put to death, and that his order was a sufficient authority for the death of that man. He should be glad to know whence the hon. gentleman had collected his knowledge on this subject; because, he had never heard that in any country, however completely despotic, with sentence or no sentence, it was the duty of any man, of whatever description, to put a fellow-creature to death at the sole will and order of the sovereign. He had heard, with concern, from the hon. and learned gentleman, something that looked a little like a palliation of a crime, which, whether they went into a committee or not, he hoped they all held in the utmost abhorrence. The hon. and learned gentleman's distinction between a moral and a legal crime he admitted to be just, declaring, at the same time, that putting a man to death, from mere inattention, was that sort of inadvertency which constituted the worst species of crime, and called for the most exemplary punishment.—Mr. Fox laid great stress on the right inherent in that House to institute and authorize any sort of prosecution, and urged the propriety of their going into a committee, as the weight of a prosecution commenced by them, would necessarily appear more solemn, and make a much greater impression, than the prosecution set up by any individual, however respectable. He said there was an act of propriety in the House of Commons proceeding in the present case, considering who they were, and what the law of parliament was. That it was the corner-stone of the constitution, and paramount to all other law; because it was the only law by which the professors of other law could at all be made answerable, the only law by which judges who administered other law, could be tried for the corrupt administration of such law. In a former debate, it had been stated, that certain crimes of the description of the two extremes of offences, could only be tried by parliament, but that intermediate crimes of felony were not an object of parliamentary investigation. An hon. and learned gentleman had declared, that if capt. Williams's offence was not murder, it was nothing. Mr. Fox adverted to what Mr. Burke had said of the maxim *ampliare justitiam*, and contended that his right hon. friend, who always viewed his subject in the most enlarged light, had not attempted to put a forced or fanciful exposition on the statute of Henry 8th, but had very justly remarked, that if the putting Mustapha Cawn to death was a legal crime, it must be a murder, and came under that statute. He reasoned for some time on the statute of Henry 8th, and declared, that he felt considerable doubt whether that act did extend or not to the case in question. If it did capt. Williams ought to be tried for murder. If it did not, the case, at least, must amount to a capital misdemeanor; and he owned he saw no misdemeanor of a higher sense than that of a servant of the East India company putting to death a native prince. They had, he reminded the House, accused Mr. Hastings of being the means of taking money from the begums: supposing it had been murder, would not Mr. Hastings have been liable to have been tried for it capitally? With regard to the murder not being premeditated or grounded in malice; the only way to judge men's motives was by their actions, and consequently if the fact committed was a murder, it was warrantable to impute a murderous intention. The motives must be similar to the act. He took notice of bills of attainder and impeachment, as the two great instruments of parliamentary prosecution. The right hon. gentleman had observed, that impeachments were not applicable to commoners charged with murder. To that he agreed; and then he reverted to what he had before observed, that misdemeanors committed by men in office, and of political consequence, were peculiarly the object of prosecution by that House. It was, besides, well worth their while to consider, whether, by passing by such a flagrant and atrocious proceeding as the death of Mustapha Cawn, they were not teaching principles to soldiers that were despotic, and would not render such an army destructive to their liberties and a most intolerable grievance. Did any man imagine that the moment their army entered Germany, or any other country, they were to adapt their maxims to the maxims of that country? Thank Heaven in no civilized country did any such pernicious principles stand! It was not only the crime of capt Williams which they ought to reprobate, disclaim, and disavow,

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but the doctrines set up in its justification; as the House could not consistently either with its honour or its duty avoid some proceeding, and they ought, by disclaiming the facts in question, to show that they considered them as a high offence against the honour of the nation, and meant thereby to prevent any more such crimes being acknowledged and boasted of, which he had hoped no Englishman would have dared to state, and which could not be thought upon without abhorrence.

Mr. *Dundas* said, that the right hon. gentleman had reasoned fairly and ingenuously, and had put the question on its true grounds: whence it was now clear that the manner in which it had been argued on a former day was not that on which it could be supported. The hon. gentleman who had introduced the question had stated, that the fact of putting Mustapha Cawn to death was a murder, cognizable as such, and that if an inquiry took place, capt. Williams must be put upon his trial, and if so, there was not a doubt that he must be convicted. From the arguments which they had heard that day, it was evident, that to treat the transaction as a legal murder was not the right way of considering it. He owned that he had never been able to raise a doubt in his mind, whether it was a proper subject for inquiry or not. He was convinced that no good purpose would be answered by going into an inquiry; and that if the facts, as alleged, were found to be true, to their broadest extent, no court of justice could take cognizance of them on a prosecution for murder, and consequently, to proceed that length, would be fruitless and nugatory; and therefore the address to the Crown, for his majesty to order his law officers to prosecute, as the right hon. gentleman had suggested the last time the question was debated, would have been improper, because his majesty's attorney and solicitor general would have found that they could not proceed a single step in pursuance of such orders, since no court of law could entertain such a prosecution. Mr. Dundas did not wish to be included in the number of those who thought the conduct of capt. Williams meritorious; and begged not to be considered as giving any approbation whatever to the transaction. He was far from thinking that any officer had a right to execute the criminal laws of a country, or that it was any part of his military duty. He was willing to suppose that the strongest report that could possibly be imagined to come from the committee now moved for, was upon the table, and that such report charged capt. Williams in direct terms with having feloniously and illegally put Mustapha Cawn to death: but he should still argue, that the inquiry ought not to have been gone into, because the House would stand in the very awkward and disgraceful predicament of having a murder recorded on their journals, without being able to take any one step to bring the murderer to justice. The right hon. gentleman (Mr. Fox) had with great candor observed, that he entertained his doubts whether the act of the 33d Hen. 8th was applicable or not to a murder committed in India, in the dominions of a native prince on one of his subjects. Sure he was, on his part, that it was no more applicable, than to any subject of this country who might kill a Frenchman in a duel in France; or a subject of any other foreign country to whom, in France the same circumstance might have happened. But the right hon. gentleman had said, that if the fact in question could not be tried as a murder, he was of opinion that it might as a high misdemeanor. He was ready to admit, with the right hon. gentleman, that many offences which could not, as the law stood, be tried as capital crimes, might nevertheless be fit subjects for trial as high misdemeanors, but he should still contend, that no inquiry was necessary, nor any committee, because the act of the 24th of the present king makes the jurisdiction in England co-existent in regard to misdemeanors with the jurisdiction in India. From the time that bill passed, the same juridical powers which then existed in Bengal, the provinces of Bahar and Orissa, were given to the court of king's bench, but the jurisdiction was confined in India to those provinces. He had conceived that the 24th of his present majesty gave a power to try capital crimes in India, but he had found that it did not; it was confined to offences *ejusdem generis* as were before liable in India; such a use, therefore, might be made of the subject then before them, as to suffer it to prompt them at a future and fit opportunity, to make an extension of the law, as it now stood, to capital crimes; but that must be done specially by the authority of statute, and it ought

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to be effected upon general principles, and to guard against similar cases with that under consideration.

The *Solicitor General* admitted that his arguments urged in the former debate might fairly be deemed rash, but not in the point of view in which that epithet had been applied to them by the right hon. gentleman on the other side of the House. He expressed his satisfaction that the adjournment of the debate had taken place, since it afforded him, in common with other gentlemen, an opportunity of examining the case and the act of the 33d Hen. 8th more minutely. That act he had, it was true, been rash enough to say, might possibly apply to capt. Williams's conduct; he was now fully convinced, that under that statute capt. Williams could not have been prosecuted for murder, since the act had no other reference than to the subjects of the King, or to persons living under the protection of the King's government. Had the inquiry been instituted, as it had been proposed, and the House had, after an inquiry, been prevailed on to prosecute, let any gentleman consider under what a disadvantage they would have sent capt. Williams to his trial, with all the weight and authority of that House against him, after having heard his defence. For himself he owned that he loved the common and ordinary forms of justice, as administered in the courts of law, and whenever a subject could be tried in those courts, that House ought not to deprive him of the advantages which he might derive from that situation, and take the law into their own hands. The solicitor general took notice of Mr. Burke's declaration, that the reason why he had not proceeded against capt. Williams four years ago was because he was not certain of the fact that capt. Williams was the man who had put Mustapha Cawn to death; and under such a doubt, he contended that, capt. Williams was most unjustly dealt with to have had his name mentioned as at all connected with the imputation of atrocious murder. He always wished to speak of the House with respect; yet he must take the liberty to remark, that if a private individual had stated that "capt. Williams, or some other British officer," had committed an atrocious murder, without being in full possession of proof to bring the fact home to him, justice would have reached that individual.

Mr. *Burke* said, that as many members of great ability and influence had expressed doubts and differences of opinion on important facts, he thought that an adjournment was still more necessary than it had been before, and therefore he rose to move that question. One right hon. and learned gentleman at the head of the India board had declared that he conceived when he drew the act of the 24th of his present majesty, he had included murder; and that he now saw it extended only to misdemeanors. Another right hon. and learned gentleman had given a different opinion: and the master of the rolls had declared that it was a murder or nothing. How to reconcile these contrary and jarring opinions, he knew not. When the lawyers rose in that House, he always expected to derive considerable advantage from their learning and talents; but that day, they had only loaded the House with bad reasons, and bad arguments, without a single case being adduced to support any one of their positions. The right hon. and learned gentleman who spoke last had boasted of his loving forms; if he did, sure he was, the respect for that House was not one of the forms he loved, since he had cast a slur upon the Commons of England and upon their most important proceedings, thereby sullying the justice of the country and stopping its course, by saying what he was not warranted to assert. Mr. Burke reprobated the language which the solicitor general had held respecting the 13th article of impeachment, and pronounced it an outrage offered to the dignity of the House——

The *Speaker* called Mr. Burke to order, informing him that he must not impute motives to any member for his conduct, which were not perfectly pure and honourable.

Mr. *Burke* said, that no person could feel a greater inclination than himself to submit to the authority of the chair; and so conscious was he of the propriety of its being strongly maintained, that he was willing that it should be so, though it were at his own expense. He conceived, however, that he had not violated order, in complaining that the right hon. and learned gentleman had given way to unbecoming language.

The *Speaker* replied, that possibly he had mistaken the right hon. gentleman, but he thought he had heard him say the learned member's argument was "an outrage offered to the dignity of the House."

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Mr. *Burke* asserted, that he had a right to declare that the loose language of the right hon. and learned gentleman, respecting one of the most important and solemn proceedings which a House of Commons ever undertook, had a tendency to degrade its dignity. He condemned the conduct of the solicitor-general, in having cast a censure on any part of a proceeding which the House had authorized and instituted, declaring that if ever injurious words had been used respecting a proceeding of the House, the right hon. and learned gentleman had used them. He ascribed the right hon. and learned gentleman's conduct to the extreme penury of his argument, for more barren reasoning he had never heard. He had been in the habit of looking up to the lawyers, as upon members of that House, who, from their learning and their professional talents, had a decided superiority over him; but the right hon. and learned gentleman had come down that day with bad argument, and still worse authority. Mr. Burke defended the charge, as being properly drawn, and in answer to the question, why he, knowing so much as he asserted he did of capt. Williams's criminality, had not brought the charge forward four years ago, he said, because capt. Williams was one among myriads of the little and subordinate parts of a system of peculation, guilt, and oppression, which had originated in Mr. Hastings; that it was natural to imagine, that the army of little vermin would have skulked in holes and corners, satisfied with their impunity from the public arm of vengeance, which had contented itself with selecting for its object the captain general of iniquity. It was not proper that those nails which appertained to the arm of public vengeance, and which were destined to tear asunder and separate the fibres of lions, should be used to rend the diminutive and petty carcases of rats and mice. Capt. Williams, however, had dared to come forward, to take them by the beard, to confess his crimes, and to challenge their vengeance. Mr. Burke next proceeded to animadvert on the act of the 33rd Hen. 8th, and in order to prove that it was applicable to the present case, and that British subjects committing murder on the subjects of foreign princes without the realm, were liable to be tried for such offences capitally, in like manner as if they were British subjects, instanced the extent and operation of the act of the 28th of the same king, which gives a power to try for murder in English courts all persons committing murder on the high seas. Mr. Burke said, the two statutes were worded in a similar manner, and proceeded in equal terms; it was, therefore, obvious that the 33rd Hen. 8th was nothing more than an extension of the principle of the 28th of the same king. He stated that a man had been tried for piracy at the Old Bailey, under the 28th Hen. 8th, when Mr. Wallace was attorney-general, convicted and executed, and thence inferred that the act of the 33rd of the same king might, in like manner, be extended to the case of capt. Williams.* In conclusion, Mr. Burke having expressed his hopes that the chancellor of the exchequer would again change his mind, and see the question in the same point of view in which he before beheld it, moved, "That the debate be further adjourned to the ensuing Thursday."

Mr. *Pitt* said, that he was, perhaps, of all others, the very last person who ought to rise to oppose the motion of adjournment, because he stood in the singular situation of having so far profited by the last adjournment, as upon due consideration of the opinion which he then held, and the principles that he had laid down, to have found reason to change his mind, and think the principles in question erro-

* The following is the Admiralty case referred to above:—On the 1st of November, 1781, William Townshend was tried and convicted for the murder of Girardo Sylvestrini, master of a Venetian ship, the Vittoria; and the murder was laid in the indictment to have been committed "about seventy leagues from Cape St. Vincent, in the kingdom of Portugal, in parts beyond the seas." In this case the fact was committed out of the king's dominions, in a part of the sea where his majesty has no real or fictitious dominion, that being expressly limited by construction of law to the half-way space between this kingdom and Spain or Portugal; it was committed on the person of a foreigner not within the King's peace; the offender was tried on a statute of 28th Henry 8th which simply gives jurisdiction in cases of murder upon the high seas, as the 33d Henry 8th gives jurisdiction of murders committed in any place without the King's dominions, there being in neither of the two statutes any specification of foreigners or of his majesty's subjects, as the persons on whose bodies the murders must be committed; and the Crown, by its own law officers, at the public expense, undertook the prosecution of Townshend, expressly because the offence was committed against a foreigner.

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neous, and that there was no reason founded either in general policy or the particular case for the House to appoint a committee of inquiry. He therefore should certainly vote against the adjournment, meaning afterwards, if the question of adjournment should be negatived, to vote against the original question. Indeed he could not see any sufficient reason for another adjournment of the debate, since there was no occasion to go on with adjournments of the debate *ad infinitum*, because the subject of it had now been so maturely considered and so amply discussed, that no additional light could be expected to be thrown on it by farther delay; nor did he suppose that the right hon. gentleman himself was extremely anxious that a farther adjournment should take place, since he had already had the advantage, which he believed was the only object of the right hon. gentleman in stating his motion of an opportunity of making a second speech in the same day's debate.—Mr. Pitt reminded the House, that when the question was last debated, he had carefully avoided entering at all into the merits of the case; but for the reasons then stated, he had been willing to vote for the appointment of a committee, reserving to himself expressly the right of voting either for or against any subsequent proceeding that might be proposed, as to his judgment upon fuller consideration should seem advisable. Mr. Pitt then stated his reasons for thinking that it would not be proper to institute a criminal proceeding by giving directions to the law officers of the Crown to prosecute for murder or to vote an impeachment for murder, to proceed by bill of pains and penalties, or to impeach for a misdemeanor. His learned friends had concurred in declaring that neither under the 33rd Hen. 8th, nor any other statute passed antecedent to the 24th of the present king, could capt. Williams be indicted for murder, for the fact of having put Mustapha Cawn to death; if, therefore, it had been usual for that House to impeach for capital crimes, which certainly it had not been, it would be manifestly absurd to vote an impeachment for that crime, for which a prosecution of a capital nature could not be entertained in any of the ordinary courts of law. With regard to a misdemeanor, his right hon. friend (Mr. Dundas) had clearly proved to his satisfaction, that no prosecution for a misdemeanor could be legally carried on in the present instance, the 24th of the present king, which gave authority to try charges of misdemeanor committed in India, in the court of King's-bench, in England, not having passed till 1784, and Mustapha Cawn having been put to death in 1781. With regard to proceeding remedially, he agreed with his right hon. friend, that there was no power as the law now stood, for trying capt. Williams here for murder, and therefore it might be proper to make some provision prospectively with a view to similar cases for the future. What might be deemed most advisable for the House, it would be for them at that time to consider; but, he should suppose, if the province of Oude was in the unprotected state described by the right hon. gentleman, the proper way of rendering crimes capital, that might be hereafter committed by British subjects in Oude, would be by granting some additional powers to the British jurisdiction exercised in India, since, though it might prove advisable to try misdemeanors committed in India in our courts in England (the usual mode in doing so being by written depositions taken in India), it had never been deemed right to try persons accused of capital crimes on such evidence as written depositions. That matter was, however, more fit for subsequent consideration than at present.—Having said this, Mr. Pitt argued to show, that it would be more advisable to ground whatever additional powers might be thought necessary, rather on general principles of policy, and with a view to the future, than on the particular case of capt. Williams. He stated also why he conceived a bill of pains and penalties an improper mode of proceeding in the present case. After reasoning for some time upon all the modes of proceeding that had been alluded to, he took notice of Mr. Burke's argument relative to the act of the 28th Henry 8th which that gentleman had stated to run in nearly the very same form and words as the act of the 33rd of the same king, and said, he should rather imagine the right hon. gentleman mistaken, since the two acts were passed under such very different views, and authorized trials for murder, under circumstances materially different. The act of the 33rd Hen. 8th authorized trials for murder, without the realm, as well as within it; and the reason why it was held, that if putting Mustapha Cawn to death was what it was said to be, as qualified

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within the 13th article of impeachment, an atrocious murder, capt. Williams could not be tried for it in England, because the fact was committed on the person of the subject of a foreign prince, in that prince's dominions, over which the British laws had no jurisdiction, and therefore capt. Williams could no more be tried here for such a fact, than he could be tried here for the murder of a Frenchman in France, a Spaniard in Spain, or for the murder of the subject of any other foreign state within the dominions of that state. The 28th of Henry 8th, on the contrary, gave authority for trying persons for murders committed on the high seas, no country having peculiar jurisdiction over the high seas. With regard to the case alluded to by the right hon. gentleman, as having been tried within a few late years, he could not speak from his own knowledge, but he had been given to understand that the case was this: Mr. Townsend, the captain of an English privateer, had stopped a Venetian vessel upon pretence of her having warlike stores on board, and finding none, wanted, nevertheless to keep her as a prize, and therefore fired into her: in consequence of which, one of the Venetians, Girardo Sylvestrini, was killed. The fact had been deemed a murder, and a jury had convicted capt. Townsend of that crime, for which he was executed.—After stating these circumstances, Mr. Pitt proceeded to notice what had been said of the arguments of his hon. and learned friends, and of the charge brought against them of having neglected their duty in not having themselves instituted a prosecution against capt. Williams. He defended them from the imputation of deserving blame on several grounds. In the first place, they had told the House that there was not an authority given by any one statute to indict capt. Williams for murder, for having put Mustapha Cawn to death in the province of Oude. In the next, though the right hon. gentlemen who drew the 13th article of the impeachment, might have reason to suspect that capt. Williams was the person who committed the fact, his hon. and learned friends could not be supposed to know any thing about the matter till within these few days; and surely it would not have been respectful to that House for his hon. and learned friends to have instituted a criminal prosecution against capt. Williams, even if it had been practicable, pending the agitation of a question in that House for the institution of a committee with a view to inquiry. Having explained this, Mr. Pitt took notice of the argument of the solicitor-general, and declared that he subscribed to the same ideas with respect to inserting the name of capt. Williams in the 13th charge, and qualifying his conduct with the words atrocious murder, before the managers were sure that capt. Williams was the person who actually put Mustapha Cawn to death. But nothing which his learned friend had said, could justify the hot, intemperate, and unparliamentary manner in which the right hon. gentleman over the way had thought proper to treat his learned friend's argument. If what had fallen from his learned friend had warranted any observation, the only parliamentary way would have been for the right hon. gentleman to have moved to take down his learned friend's words at the time; and not having done so, the right hon. gentleman had violated the orders of the House by what he had said upon the occasion.

Mr. *Fox* said, the solicitor-general had laid it down as a principle inseparable from all criminal prosecutions, that there must be an individual responsible to the party charged with a crime, to have his remedy against, in case he should be acquitted. So far from the law of England proceeding on this principle, he would join issue with the learned gentleman, and maintain that the general principle of criminal prosecutions was, that there should be no individual so responsible to the party accused of a crime; and that whenever there was such a responsibility, which he was aware there was, and ought to be, in certain cases, that was an exception to the principle, and nothing more. In order to illustrate this argument, he would remind the House of several different species of criminal prosecutions. In all indictments for criminal offences, the indictments ran in the name of the king, and not of an individual, and where the party was acquitted under circumstances that intitled him to some remedy, he was obliged to find out who had been the real prosecutor, and to establish, that he was that person, by proofs that he had collected the evidence, paid the expenses, and done such other acts as sufficiently showed that the prosecution had originated with him. And the reason why the name of the king was always used, and that gene-

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rally speaking no individual stood forward as prosecutor, was, that public justice might not be frustrated, because it often happened that men committed crimes which no individual might be willing to charge them with. Another mode of prosecution, which afforded the party prosecuted no remedy was, in the case of a grand jury presenting a bill of indictment themselves. The grand jury were sworn to do their duty, and it was common for them to present bills on their own motion; and yet it was notorious no action could lie against a grand jury. A third mode in which a party prosecuted had no remedy was in the case of impeachment by that House. Would any man pretend, that if a person impeached by them were acquitted, he could bring his action against the House of Commons? The supposition was too self-evidently absurd to be dwelt upon, and if he had a mind to go farther into the law of England, he was satisfied that he could convince any man who entertained a doubt of the fact, that the general principle of the criminal law was, that there should not be any responsible individual prosecutor, and that whenever there was one, it was an exception, and not a principle. He put the case stated by the attorney-general, that if a man, holding his high office, exercised his authority either maliciously, wantonly, or from sinister motives, and harassed the subject by groundless prosecutions. Supposing, for instance, that an attorney-general prosecuted capt. Williams, and capt. Williams was honourably acquitted, and the whole charge proved to be a scandalous calumny. Capt. Williams, in that case, might apply to that House for a remedy, and desire that the attorney-general might be impeached. The House possibly might answer, "We admit that you have been extremely ill used, your character has suffered severely, your fortune has been injured, and all without any apparent reason: but your case does not affect the state or its interests, and it is our duty as a house of parliament to consider the good of the state chiefly, and to proceed to impeachments only on great and important national questions." What remedy would capt. Williams in that case obtain? If it had been a principle of the law of England that in all cases of criminal prosecution there should be an individual prosecutor responsible, that prosecutor would, in all cases, have been apparent, whereas the fact was notoriously otherwise.—Mr. Fox next justified the manner in which Mr. Burke felt what had fallen from the solicitor-general relative to the impeachment of Mr. Hastings, and addressing himself personally to Mr. Pitt, complained of the usage which the managers of that prosecution experienced almost daily, being not only libelled in pamphlets and newspapers, but repeatedly censured for their conduct by the members of that House. Having been directed by that House to carry on the prosecution, they ought therefore to be supported by that House; and they were, in an especial manner, intitled to the protection of the right hon. gentleman, since he had declared there was a necessity for the impeachment, and given it his countenance in the first instance. He lamented that the right hon. gentleman had changed his mind respecting the proposed inquiry on the present occasion, because the arguments used in a former debate by that right hon. gentleman had directly coincided with his own sentiments. To one of the strongest of those arguments he did not recollect that the right hon. gentleman had that afternoon given an answer: what he alluded to was, a declaration of the right hon. gentleman, that if there was no statute under the authority of which gentlemen of the learned profession were inclined to think that capt. Williams could be tried at common law, that was an additional reason to induce parliament to take up the matter, and supply the defect in the criminal laws. Mr. Fox added, that he certainly had his doubts respecting the 33rd Hen. 8th, as to its applicability; but those gentlemen who concluded that those doubts were adverse to the present motion were mistaken; they were rather favourable to it. At first, he owned, he had imagined that the 33rd Hen. 8th was not applicable to the case of capt. Williams; but, having, in consequence of the adjournment of the debate, had an opportunity of adverting to the act, he was inclined to think it might apply; nor could he agree that the 33rd Hen. 8th was the first time that murder without the realm was triable. Murder abroad might, before that period, be triable in courts of chivalry, and such other courts as had, in earlier periods of our history, been in existence; so that the 33rd Hen. 8th might only mark the time when murder, under similar circumstances, was constituted a capital crime by statute. He had

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his doubts, therefore, whether the 33rd Hen. 8th was not applicable to the present case; at the same time it would be fair to confess that he had his doubts also the other way; and although it was furnishing an argument against himself, he would state what those doubts were grounded upon. It was this: whoever looked to the 33rd Hen. 8th, would find the word treasons coupled with the word murders all through the act; as treasons clearly could only mean treasons against the king, it was fair to suppose that the murders mentioned in the same act must be intended to describe the murders of the subjects of the king. Mr. Fox reasoned on this for some time, and pressed it as an additional argument for going into the inquiry, which would enable them to ascertain that, among other important facts necessary to be investigated. After retorting Mr. Pitt's complaint against Mr. Burke, by asking how far calling a gentleman's manner unparliamentary, and terming his language hot and intemperate, was reconcilable with good manners? Mr. Fox concluded with declaring, that he should adhere strictly to his former opinion, and vote for the question of adjournment.

The *Solicitor General* expressed his persuasion that Mr. Fox could not have understood him so as he had represented him; he could not have thought him so ignorant, and he was sure the right hon. gentleman had too much candour not to acknowledge that he did not, nay, that he could not, have laid it down as an invariable principle, that in all cases of criminal prosecution there must be an individual who should be responsible to a defendant in case the prosecution should turn out to have been malicious, and without grounds. What he had said was no more than that capt. Williams ought to have some person to look up to for redress, if he were tried and honourably acquitted. And undoubtedly, if any persons applied to the lords of the privy council, and called upon them to institute a criminal prosecution, and upon the trial it should turn out that the whole accusation was a foul and unmerited calumny, the individual so injured might bring his action against the persons who applied to the lords of the privy council, and he would undoubtedly recover damages. The solicitor-general complained of having been undeservedly arraigned as intending to reflect on the managers of the impeachment. He declared that he had not intended the smallest offence whatever against the managers; possibly his observations might as well have been spared, but he had addressed it to the House, and he must beg leave to persist in it. Standing in the situation which he had the honour, unworthily, to hold, he might reasonably be supposed not likely to talk in that House upon subjects of law loosely, or without due consideration of what he was about to say. No man more detested libels in pamphlets and newspapers than he did; but was the circumstance of a member of that assembly, humbly and respectfully addressing himself from his place to the House itself on a great and important parliamentary subject, at all similar to filling the town with libels in pamphlets and newspapers? He must therefore be permitted to repeat, that if the House was not in possession of proof that capt. Williams was the man who put Mustapha Cawn to death, at the time they carried up the thirteenth article of impeachment, they ought not to have let his name stand in the article annexed to a charge, qualified with the name of an atrocious murder. The circumstance of capt. Williams having recently come forward and avowed that he was the man who caused Mustapha Cawn's head to be cut off, was no justification of the House for having, four years ago, voted the article so drawn. He had to beg capt. Williams's pardon for his share in the proceeding; he had, he confessed, long felt that, as an accessary to that fact, he had acted unguardedly and unjustly to capt. Williams, and he lamented that he had done so.

Mr. *Francis* said, that he could not prevail on himself to agree to the motion for another adjournment. It was a wise and salutary rule in our courts of justice, when the pleadings and evidence were once heard, not to suffer the jury to separate before they had given a verdict, and he wished the same rule had been observed in the House of Commons. The first impression which this affair had made on the mind of almost every man in the House, when the former debate ended, was the true and genuine impression that resulted from the merits of the case. If the question had been put then, he was sure there would not have been six voices against it. But the court had separated without deciding. The members of it had gone abroad, had listened to other

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arguments, to extrajudicial evidence, and now they came back to give their final opinion, with impressions on their judgment totally different from those which they had received from the debate, and which they had carried with them out of court. He had suffered too much already by one adjournment to consent to a second. He had lost his majesty's chancellor of the exchequer, who had declared positively for an inquiry. He had lost his majesty's secretary of state, who had declared positively for an inquiry. The solicitor general had very truly acknowledged, that on the former day it was the general inclination of the House to adopt the motion. But of all his losses, that which he admired the most and lamented the least, was the loss of the hon. major's support. After all they had heard from that gentleman, after all the eagerness he had expressed to promote an inquiry into the merits of capt. Williams's conduct, it certainly was a circumstance to be admired, that every argument he now used was calculated to resist and defeat the motion. This circumstance, however, he lamented very little, as he was sure he should have the hon. major's vote, if the question should go to a division. Another hon. gentleman (Mr. Vansittart), who certainly had not gone to India for nothing, who had picked up great knowledge, and brought home some excellent principles from that country, had roundly asserted, that the vassalage of the nabob of Oude to the British power, was to be solely attributed to a measure which took place in 1775, and to which Mr. Francis had been a party, viz. the resolution of the governor-general and council to lend the nabob a certain number of British officers to discipline his troops. Mr. Francis, on the contrary, affirmed that the nabob was still free, and might have continued so, but for a subsequent measure adopted and carried by Mr. Hastings in 1777, against the strongest opposition which sir John Clavering and he had been able to make to it. The merits of this measure had been fully discussed in the printed proceedings of the governor-general and council of the 5th of May, 1777, the whole of which were very curious, and deserved the special attention of the House. His own final opinion of it had been recorded in the following words: "I conceive it to be impossible that the nabob, or any prince, whose understanding is capable of forming the idea of independence, can give a voluntary consent to a measure which dethrones him. Nothing is left for me, however, but to protest against it."—Mr. Francis, then addressing himself to the Crown lawyers, observed, that whereas it had been urged by them that penal statutes ought to be construed strictly, he fully assented to that proposition; but he insisted that the learned gentlemen did not adhere to their own rule, when they maintained that the present case did not fall within the intent and meaning of the 33d Henry 8th. This statute says, "all murders within the king's dominions or without," not a word of British subjects. What right have the lawyers to say that none but British subjects were intended? What right have they to a particular construction of general words? Is not the killing a foreigner as much a murder as any other? But it is said, that no man has yet been tried for the murder of a foreigner under that statute. Perhaps, in fact, it may be so. Perhaps the case never occurred. But does it follow, that because you may never have had the same occasion which you have now to resort to this statute, you may not resort to it when the case occurs? It could not in the nature of things be a statute much in common use. There was another statute of the 28th of the same king against piracy, the words of which were exactly the same with that of the 33d. Yet, under that of the 28th, William Townsend had been tried on the 1st of November, 1781, for the murder of Gerrardo Silvestrino, master of a Venetian ship, about seventy leagues from Cape St. Vincent, and stated in the indictment to be in the dominions of Portugal; and for this murder, of a foreigner, on the high seas, without the kings dominions, the murderer had been convicted and executed. He challenged the lawyers to state, if they could, any difference between the two statutes, as to the point in question. The attorney general had asked, with great gravity, how would it be possible for him to frame the indictment; how could he insert in it those essential words, "against the peace of our sovereign lord the king?" and this had been insisted on as a grand insurmountable difficulty. Unlearned as he was, he would undertake to give those learned persons the information they wanted. First then, he informed them that those words though usual, were not necessary in an indictment. Had they ever heard of Hawkins's pleas of the

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Crown? He understood it was a book of great authority. Would they listen to it; would they suffer their learning to bend to it? The words of Hawkins are, "It hath been adjudged not to be necessary in an indictment of death, to allege that the person killed was in the peace of God and of our lord the king, &c., though such words are commonly put into indictments; for they are not words of substance." As to the clause that the act done was against the peace of the king, the same author says that "there are four precedents without it in Coke's Entries, two of them for different homicides, and that Rastall's Precedents, both of indictments of felony, and of inferior offences, do as often omit the words *contra pacem* as make use of them."—Nevertheless, said Mr. Francis, if the attorney general still thinks that the words "against the peace of the king," are indispensable, I take it upon me to inform him, that they may be made use of, not only without violence to, but in the fairest construction of the statute. Every thing created by that statute for the trial of murders committed without the king's dominions is founded on a legal fiction, a wise, a useful, and a salutary fiction of the law, for securing the great end of justice, namely, that the crime, though in fact committed on the other side of the globe, was supposed, and taken to be committed in some county of England. This was the direct and avowed fiction of the law itself; but the moment it was admitted that the act in question was done in a county of England, it followed of course, it was a consequence unavoidable, that the crime was against the peace of the king, and all the pretended difficulty about framing the indictment was annihilated.—Another learned gentleman had observed, that there was no occasion for a committee of inquiry, since we were already in possession of all the facts. True, we were so; but how? as individuals only. The House had not the information before them in such a form, as to enable them to proceed against capt. Williams, even if they thought it ever so proper to do so. His petition, containing an acknowledgment and justification of the act in question, was not before the House. Suppose it should be thought right to go no farther than barely to amend the law, and to provide against such cases in future, how could they do even that, how could they provide a distinct, appropriated remedy against similar offences, if they had not in their view the circumstances of the present offence, and the principles on which it was defended? A committee of inquiry would bring the petition before them in the only way in which they could take cognizance of it.—Another learned gentleman had stated broadly, and staked the whole credit of his learning upon the truth of this proposition, that it was the fundamental principle of the criminal law of England, that prosecutions should be conducted by individuals, in order that the party if acquitted, might have his action for damages for a malicious prosecution. I believe I need not remind the House of the benevolent purpose for which that monstrous doctrine was maintained, nor how the doctrine itself has been blasted and extirpated by the superior learning of my right hon. friend. But, admitting I were disposed to take upon me a public duty, which properly belongs to the law officers of the Crown, will the learned gentleman tell me how an individual is to proceed under the statute of Henry 8th? It speaks of the king's council, certainly not as private persons. But the encouragement he holds out to me to perform a public service, in which I have no more concern than any other member of the community, but which he is paid for, is that if I fail, I shall be liable to an action for damages. On the other hand the consolation he holds out to capt Williams, to a man who professes to look for nothing but the clearance of his character and honour, is, that he will have a good chance of recovering a sum of money out of Mr. Francis's pocket. If it were possible for capt. Williams to take such a hint and to follow such advice, it would be as silly a step as it would be in him dishonourable. For what damages would a court of justice give to a man for a prosecution undertaken at his own earnest desire, and to answer a purpose, which the object of it thought would be beneficial to himself? That learned gentleman had taken upon him to fling out many irregular, unparliamentary declarations reflecting on the acts and proceedings of the House, as if the House had acted in a manner grossly injurious to capt. Williams in charging him, as they had done in the 13th article of the impeachment, with an atrocious murder. Why? Because at that time, they did not know with absolute certainty, that

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capt. Williams was the person, and, in that uncertainty, had stated the charge doubtfully between him and some other British officer. Sir, the fact is they knew with sufficient certainty who the person was, though they thought it right to leave the averment in that technical form *ex abundanti cautelâ*, and for no other reason. But, if the House had done wrong, no member of it had a right to fling out insinuations or reflections upon any act of theirs. If he thought the case deserved censure, he ought to move for a revision of the article in question, and make a formal proposition to correct it. This he had been repeatedly challenged and defied to do, but in vain. —Mr. Francis concluded with saying that, as to the present case, he had done enough, and would do no more. If the world should be of opinion that the cause of public justice is deserted, let it rest with the great inquest of the nation, which refuses to inquire. Let it rest with the executive government, which refuses to execute the laws. Let it rest with the law officers of the Crown, who are bound, *ex officio*, to inform against crimes. They, who have the power, are vested with the trust. Their duty is implied in their station. They have no right to expect that individuals should perform it for them. The fate of the motion, I see, is decided. Nothing is left for me, but to lament as I do with the deepest concern, that it should be in the power of so very little law, to get the better of so many motives of policy, justice, and benevolence as belongs to the present question, and have been urged in support of it without the shadow of a reply.

Mr. *Burke* rose amidst loud cries of Question, question! He said that he merely rose to desire gentlemen not to leave the House as soon as the division should be over, as he felt it absolutely necessary, after having heard some things that had passed in the debate that day, to submit certain matters to the consideration of the House before they parted.

The question of the adjournment was negatived after, which the main question was put, and Mr. Burke divided the House, when the numbers were.

Tellers.

Yeas	Mr. Francis - - - -	22
	Mr. Tierney - - - -	
Noes	Mr. Cawthorne - - -	61
	Mr. Burges - - - -	

So it passed in the negative. As soon as the House was resumed,

Mr. *Burke* called upon the solicitor general, if he thought the part of the introduction to the 13th article of the impeachment, which mentioned the name of capt. Williams, and qualified his conduct with the words "atrocious murder," an injury to capt. Williams, to move to have the article taken off the file, and that those words should be expunged. He complained of the injustice done the managers of the prosecution against Mr. Hastings, by gentlemen of great weight and authority in that House, having, in the first instance, neglected to attend their duty when the articles were originally drawn, and thus withheld the assistance which their great abilities might have afforded, and then coming down at the end of four years, and censuring those articles. He repeated his appeal to the solicitor general, and added likewise an appeal to the candour of the House calling upon them, if they had changed their opinion respecting the impeachment, or any of the articles, manfully to avow it, and act accordingly.

Mr. *Pitt* immediately moved, that the other orders of the day be read; which was agreed to.

Debate in the Commons on the Isle of Man Bill] March 17. The House having resolved itself into a committee on the petition from the duke of Athol "for a bill for appointing commissioners to inquire what rights and species of property are necessary to remain vested in the Crown for the security of the public revenues, and also how far and to what extent his remaining rights and interests in the said Island have been or will, by the dismemberment thereof be impaired, general Murray moved, "That leave be given to bring in a bill for appointing commissioners to inquire into the extent and value of certain rights, revenues, and possessions in the Isle of Man."

Sir *Joseph Mawbey* thought it extraordinary that a motion of so important a nature should be submitted to the committee, without a single word having been offered in its support. He was an old member, and recollected well the compensation given by parliament to the late duke for his rights and prerogatives in the Isle of Man. He had, at that time, and ever since with many other members, considered that the duke had, for a very va-

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luable compensation, surrendered the whole of his rights in the Isle of Man for ever. It therefore struck him with some surprise, that, at the end of twenty-five or twenty-six years, for he believed the compensation was made in 1763 or 1764, a proposal unaccompanied by explanations should be brought forward to parliament for a farther consideration of those rights and an additional compensation.

Mr. *Dundas* having admitted that a compensation had been made twenty-five years since, for certain rights possessed by the duke of Athol over the Isle of Man, contended that at the time of the compensation, those rights did not undergo a thorough examination. The motion just offered to the committee on the part of the present duke, was not for granting an additional compensation, but merely for the reconsideration of the subject, the petition stating, that certain rights had been taken from the family which had not been intended by the act. All now desired was, that an inquiry should take place into such a statement, in order that the fact might become ascertained whether any rights were exercised which it was not the original intention of government to have assumed. It was well known that those rights only were designed to have been taken which rendered the Isle of Man a nest of smugglers, who carried on a trade very injurious to England and Ireland; but he believed that it was equally admitted, that the compensation given to the late duke was far, indeed, from having been adequate to what the duke had been deprived of by the agreement which was at the time more than generally acknowledged to have been enforced by the weight and power of government upon the duke of Athol.

Sir *Joseph Mawbey* was ready to confess that the necessity for destroying a nest of smugglers gave rise to the agreement made with the late duke of Athol. The duke however, at the time of its being concluded, was at the age of discretion, and, as he had then understood, had entered into a compact with the country for the whole of his rights in the Isle of Man; the compensation, not only he, but many other members had thought to be fully competent; and by the agreement he had considered that the business was set perfectly at rest. He disliked the re-opening of treaties which had been made between the public and individuals for re-examination; because from such re-considerations he never knew any advantage result to the public

Mr. *Rose* said, that with regard to the bargain made with the late duke for his sovereignty over the Isle of Man in 1765, at that time the late Mr. Grenville was the minister, and it having been found incompatible with the interest of the public, that the sovereignty of the island should remain any longer in the hands of an individual, the noble family in question had been divested of it; but as it had been at the time, a great object with government to get the sovereignty into their own hands as soon as possible, the matter was grasped at suddenly, and pursued with great eagerness. The bill* was brought in, and pushed through both Houses with uncommon precipitancy; and so far was it from being a fact, that a fair bargain had been made, that he believed upon examination, the reverse would appear to be nearer the truth. He had great reason to imagine that much advantage would arise to the public from the whole case being re-considered. So suddenly had the treaty with the noble family in question been brought to a conclusion, and confirmed by parliament, by means of a bill hurried through both Houses in an unusual manner, that very material points, equally interesting to the noble family and to the public, were left ambiguous and unexplained; hence had followed a variety of inconveniences to both parties, which a re-consideration might put upon an unequivocal footing.

Mr. *Orde* well remembered, although he had not in 1765 the honour of a seat in parliament, that then the bargain in question was first submitted to the consideration of the House, and also that it had been brought forward about ten years ago, when it underwent a full discussion, and had been decided against the duke of Athol. He had not compared the present petition with that then presented to the House, and could not tell whether they were exactly similar. If they were, as the House had already decided upon the petition, they could not again regularly take it into their consideration

Mr. *Rose* said, that the prayer of the petition, and the mode of proceeding now proposed, were essentially different from the prayer of the former petition, and the proceeding then instituted. At that time

* See Vol. xvi. p. 15.

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a bill was brought in and read a first time, the object of which was, to restore certain rights to the noble family, and grant them a further compensation.

Lord *Frederick Campbell* said, that the bill confirming the bargain had been hurried on with the most unusual precipitancy; that he had lived in great intimacy with Mr. Grenville, the minister at the time; but that the bill was so injurious to the noble family who were to be deprived of their rights and their property in the Isle of Man that though upon the most friendly footing with the minister, he complained to him, both in public and in private, of its manifest injustice, and the indecent precipitation with which it was pushed forwards through its several stages. He had stated his objections, on these grounds, in his place, at that time, more than once, and he well remembered, that many other gentlemen, then in parliament, did the same, and urged great hardship done to the noble duke, who had been, as it were, notoriously compelled, contrary to his inclination, to accede to its passing; and in consequence of which his interests had been materially and detrimentally affected.

Mr. *Curwen*, having remarked that, in consequence of the bargain with the late duke of Athol having been precipitately pushed through parliament, a great variety of rights in the Isle of Man remained in an undecided state, added, that, in consequence also of the doubts started whether the rights belonged to the Crown, or the noble family alluded to, those rights were wholly unexercised, to the great inconvenience and annoyance of the inhabitants. So much did they feel this circumstance as a grievance, that he was persuaded, if they had been apprized that any bill was likely to be brought in for the settlement of those doubtful rights, he should have received instructions from all of them to give to such a bill every support in his power. Mr. Curwen particularly mentioned the state of the ports of the Isle of Man, as an instance of the many evils arising from the point which he had stated. There was scarcely a port in the island in perfect repair, and some of them were so exceedingly ruinous from the scandalous neglect which had prevailed respecting them, that it was not many months ago that a boat coming out of one them, had been overset, owing to the dilapidated condition of the mouth of the port, and fifty persons lost their lives.

Mr. *I. H. Browne* wished to take notice of the observation made by the hon. baronet, that the public rarely were gainers by the revision of a bargain that had been made on their behalf with an individual. It was evident from what had been said, that the public might possibly derive material advantages from a re-consideration of the subject; but even if no such advantages were likely to accrue from the inquiry proposed, surely it was a sufficient ground for instituting it, that they might see whether justice had been done to the noble family in question or not. Was it not of the first importance to the public, that no well-grounded reason of complaint should remain, that in a purchase of a very considerable property from an individual, an unfair advantage had been taken by government of that individual, and if it should appear, that owing to the haste of the minister in power when the bargain was made, (which might, he was willing to allow, arise from very laudable motives, was it more than justice to set the matter to rights? This struck him as a very serious consideration, and added to the interesting facts that had been stated, surely rendered it incumbent on the House to adopt the motion.

The motion was then agreed to; and leave was given to bring in the bill.

March 19. The bill was brought in by general Murray and read a first time. On the question being put, that the bill be read a second time,

Mr. *Windham* earnestly wished that an early day might not be appointed for the consideration of a subject which seemed to carry along with it its meaning in marked characters. He understood that the town of Liverpool, and the inhabitants of other ports in that part of the kingdom felt alarmed on the occasion; it was incumbent, therefore, on that House to examine it thoroughly, and he trusted that a second reading of the bill would not come on without sufficient notice.

Mr. Secretary *Grenville* regretted having been absent when the motion for leave to bring in the bill had been made; a circumstance which should not have happened, had he entertained an idea that any such motion was likely to be brought forward. He regretted it the more, as an impression had gone abroad of what had fallen in that day's debate, founded, he was persuaded, on misrepresentation,

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which, however, he felt it his duty, on every principle of filial gratitude, to combat. The impression he alluded to, he was convinced, originated merely in misrepresentation, because the sentiments which had caused it, he had every reason to believe, had not been expressed, nay, he was sure they could not have been pressed. He had been too long used to misrepresentations abroad of what had passed in that House, to place a reliance on any statement of words which he had not himself heard uttered within those walls. He should be lost to every filial feeling, and, what was still a more predominant principle in his mind, to every feeling arising from a love of justice and truth, if he did not take the earliest opportunity of contradicting the assertions to which he alluded, and declaring that if any gentleman meant to contend that the bargain made between the public and the duke of Athol, in 1765 was a bargain conducted upon the principles which were unjust, or in a manner which was oppressive, that gentleman would find in the House, a person ready to meet his arguments, to reason the matter with him fairly, and to maintain the reverse of the position. He meant to support the present bill; but he wished to have it understood distinctly upon what ground he argued in its favour. He admitted that the public entering upon a bargain with an individual, made that bargain under peculiar advantages, and that an individual bargaining under such circumstances, was not upon the same footing as when he was making a bargain with another individual. There might, therefore, be more than one reason for a subsequent revision of any bargain transacted between the public and an individual. One principal ground for a revision might be, that the party who was to sell was not actually in possession of the property in question, and that the rights for the purchase of which the bargain had been instituted, were not vested in the party at the time when the bargain was made. A second ground might be, that the party from whom the purchase was made, did not actually know what the rights he was to be divested of were, what their extent and what their value, and that the effect of the contract not only exceeded the contemplation of the minister, but went beyond what the public had it in their wish to require. There was also one other point which might be urged on the part of those with whom a bargain had been made, on behalf of the public, which that House, he conceived, would at all times regard with much greater jealousy and caution than either of the two former, and that was, when the party with whom the bargain had been made came forward afterwards, and said, the conditions of the bargain had been unfair, and the terms inadequate. For the considerations which he had stated, he meant to give his support to the present bill; but he begged the House distinctly to understand, that he gave it his support merely as a bill of inquiry, and not by way of pledging himself to any one measure which might be proposed subsequent to that inquiry. It was one thing to inquire, and another thing to act upon its result.

Lord *Frederick Campbell* lamented that, the right hon. gentleman had not been present on a former day, when the subject of the bill was in agitation; because he was convinced if he had, that not one word said by him, or by any other gentleman, would have impressed his mind with an idea, that the least disrespect whatever had been cast on the right hon. gentleman's father. His lordship observed, that he had come into the House in the middle of the debate, which took place on a former day, and consequently was not fully master of the whole of the arguments which had been urged; but having taken an active part in the transaction between the public and the noble family in question, in 1765, he was master of the subject, and had said, that the bargain had been made with precipitancy. It was no more than he had declared to the minister of the day, at the time, for whom he had always entertained the utmost respect. It was well known that he had lived with him in great intimacy and friendship; that he was under considerable obligations to him, and it was not very likely that he who had entertained an equal respect for the father at that time, and for his son now, should use any expressions reflecting in the smallest degree on the memory of the former. That right hon. person was admitted on all hands to have been a minister of great abilities, indefatigable industry, consummate virtue, and immoveable integrity. He did assure the right hon. gentleman, therefore, that in what he had said, he ment nothing disrespectful of his late father; and if any word which had fallen from him, could be thought to convey such a meaning, he was heartily sorry.

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Mr. *Curwen* desired to call the attention of the House particularly to the inhabitants of the Isle of Man, and to the inconveniences which they had, for nine, or ten years together, laboured under, in consequence of certain rights remaining in doubt between the Crown and the duke of Athol. He again adverted to the wretched and ruinous state of the ports of the island, instancing the port of Douglas in particular, which he described as extremely unsafe and dangerous. He mentioned a claim of custom duty, of half a guinea a boat, on the herring boats which entered the ports of the Isle of Man, which produced about 200*l.* a year, and was applied to the maintenance of the ports; and he called upon general Murray to state what the claims the duke of Athol intended to make were, in order that he might apprize the inhabitants of the Isle of Man, who were so materially interested, and that they might be prepared to be heard against the bill by themselves or their council.

General *Murray* said, it was utterly impossible for him to give an answer to any such question in the present stage of the business. The bill then under consideration was merely a bill of inquiry.

Mr. *Dundas* joined with the noble friend in lamenting that his right hon. friend had not been present when the motion had been made for leave to bring in the bill. Sure he was, if that had been the case, his right hon. friend could not have entertained an idea that a single syllable had been uttered in the least disrespectful to the person for whom and for whose character his right hon. friend, in a manner so creditable to his feelings, and so perfectly natural, expressed an anxious wish to avow himself the advocate. He wondered not, however, from the misrepresentations given in some of the public prints of what had been said on that day, that his right hon. friend should feel as he had done. Had he not been present, but merely gleaned his knowledge of what passed from those prints, he should have felt it in the same manner himself. With regard to the question, gentlemen seemed not correctly to understand the nature and object of the present bill. Before he endeavoured to explain himself, he was willing to tell the House, unequivocally, that every word which fell from him on the present subject ought to be regarded with peculiar jealousy He. had taken an active part in the discussion of the duke of Athol's claim ten years ago, and the very points of view in which, from long and close examinations of the subject, he had been led to consider it, were so impressed on his mind, that they might fairly be regarded as the source of some degree of prejudice in his sentiments. Mr. Dundas here entered into a description of the grounds of the question agitated ten years ago. He stated the terms of the original bargain made on behalf of the public, which were 70,000*l.*, and an annuity of 2,000*l.* a year for the joint lives of the then duke and duchess of Athol. The duke of Athol had, at the time, but lately come into possession of his inheritance, and was perfectly incompetent to pronounce what its value was, or what he ought to ask for it. It is well known, that he had presented a petition, praying for more time to ascertain his rights, which prayer had been rejected. That in the contract made in 1765, many matters of material importance to the public, and to the noble family were left perfectly unexplained, and, thence, necessarily required a revision; that when the question was brought forward, ten years ago, an essential point in dispute had been the right of custom on the herring fishery, which was clearly a manerial right. On that point the House had divided, and he had divided with a great majority of that House against the minister of the day, who thought it his duty to oppose the noble duke's claims, but the bill nevertheless passed that House, yet afterwards it was withdrawn when in the House of Lords. The duke of Athol, however, was not to be considered as having set down contented, the fact being, that he had never failed to consider himself as a man greatly aggrieved, and to the day of his death he felt the injury deeply and severely. He had always meditated an endeavour to prevail on parliament to revise the transaction in order to do him justice, and his son and successor had certainly chosen the most respectful way of proceeding, to obtain it. Had the present duke been the person with whom government had to treat in 1765, he was persuaded that his intelligent mind and excellent understanding would have prevented the difficulties the noble family had now to encounter. On the present duke, he was willing to confess, the labouring oar lay. It remained with the noble duke to make out a case sufficiently clear and convincing to satisfy that House

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that the bargain was so hastily made, that various circumstances material to be explained, had been left ambiguous and doubtful. That the consequence was, rights which never were in the contemplation of government to obtain, and which it did not interest the public to acquire, had devolved to the public. That the Athol family were injured by such a lapse of caution on both sides, and that upon principles of mutual convenience, as well as upon the still stronger principle of justice, the transaction ought to be re-considered, and if it should appear that the noble duke's complaint was well founded, he was sure there was no man in that House so lost to every sense of liberality and candour, as to refuse to do the Athol family full and complete justice. It was true that a bargain once made might be considered as a bargain concluded; and although the grounds of the duke of Athol's application to parliament were undeniably founded, it might be said, "We know you were lately come into possession of your estate, when it became necessary for public purposes to divest you of your sovereignty, of the Isle of Man; we are aware that you could not possibly ascertain its value; we believe also that your complaint of injustice done you in the transaction is true; and that many rights, not understood or explained at the time, were involved in the compact, but an act of parliament having passed upon the subject, and the bargain been made law, we will not look at it again." Such language would ill become a British legislature; and he was sure there was not a member in that House who would be so illiberal as to use it. He begged leave to remind the House of the true nature of the present bill which appeared to have been altogether misunderstood. The duke of Athol, conscious that it lay with him to make out a case clearly and distinctly, before he could expect parliament to reconsider the transaction of 1765, applied to the House to countenance a bill of inquiry, in other words, a bill appointing commissioners to investigate the conditions of the bargain of 1765, and all its various circumstances. This was surely the most respectful application to parliament that could possibly be made, since it was an appeal offered in the most solemn manner to the legislature which ratified the bargain of 1765 to re-examine the grounds of that bargain. It left it to the House to appoint the commissioners, and when those commissioners, whoever they might be, should have made their report, the matter did not go to the minister of the day, to the lords of the treasury, nor to any departments of government, for decision, what compensation ought to be made, but to the legislature at large. It would lay with that House ultimately to decide what they thought the nature of the case might require, and to the other House to judge how far that decision was proper, adequate, or exceptionable. There could, therefore, arise no mischief from the entertainment of the present bill.

The Bill was ordered to be read a second time on the 12th of April.

Debate in the Commons on the East India Budget.] March 31. The House having resolved itself into a committee, to which the several accounts and papers respecting the state of the revenues of the East India company were referred,

Mr. *Dundas* rose. He said that the result of the statement of last year, founded upon the accounts then presented, was to produce a clear surplus, after payment of all charges and the interest of debts in India, amounting to 1,284,440*l.* valuing the current rupee at two shillings. The accounts now before the House fully prove that the expectation then held out was not exaggerated; the actual amount of receipts and disbursements for 1788-9, as far as they can be made out, leaving a much greater surplus than was there stated, and which cannot be taken at less than 1,700,000*l.* as will more fully appear in the course of examining those accounts. In doing which, with a view to aid your consideration of the accounts before you, I shall begin with stating the situation of each settlement separately; I shall next lay before you the aggregate amount of the revenues and charges of all your settlements jointly, for the purpose of ascertaining what is the real amount of your Indian surplus; and it may be proper to conclude with such observations on the general view of the account, as may enable you to determine how far you have just cause to consider this as a permanent surplus.

The first in order and importance is Bengal. In stating the accounts relative to Bengal last year I was not in possession of an estimate of probable receipts and disbursements for the year 1788-9, as I regularly ought to have been, but my

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statement was perhaps more satisfactory, the basis of it being a comparison of the estimated and actual account of the year 1787-8. The actual exceeded the estimated amount by 117,821*l.*, the former being 5,182,711*l.*, the latter being 5,064,890*l.* and I then proved by different averages, founded on the accounts of former years, that I was well warranted in considering the actual amount of the gross collection of the year 1787-8, being 5,182,711*l.*, as a fair state of the revenues of Bengal. In the present year I am possessed of the account of the actual receipts and disbursements for the year 1788-9 as also of a comparison of that account with the estimated one for the same year, and likewise of the estimate of probable receipts and disbursements for the year 1789-90; and it is upon those materials I mean to found the resolutions I shall propose for the adoption of the committee. I shall refer first to the account upon the table No. 3, being the comparison between the actual and estimated account of 1788-9, agreeable to which you will observe that the estimate of receipts was 5,440,148*l.*, whereas the actual receipt was 5,619,994*l.*, being an excess above the estimate of 179,846*l.*, The chief difference arises from the excess of collection in the land revenues and the article of salt. The land collections exceed the jumma, which appears to have been settled at 3,115,603*l.*, and of course it is evident that the excess arises either from a greater sum of arrears of former years, being collected, or not so great a balance remaining of that year's settlement as was allowed for in the estimate. I cannot omit observing upon this as a very strong proof of the prosperous state of the landholders of the country, when a sum of arrears is collected besides the annual rent. It gives room to look forward with much satisfaction to the period, fast approaching, when there will be no arrears. Indeed I am apt to believe that period of prosperity is already arrived; for in a collection to so great an amount, and where the accounts are to be made up to a precise day, there must be always the appearance of some arrears; but that makes no variation upon the general result, for if some arrears are left at the end of the year, a similar sum left at the end of the year may be collected within the period of the annual account.

I shall have occasion hereafter to revert to the article of salt, and shall therefore proceed to the other branch of the account No. 3, the actual and estimated account of charges. These charges were estimated at 2,945,792*l.*, and the amount actually incurred at the end of the year is 3,183,250*l.*, being an excess of charges of 237,458*l.* From which, deducting the excess of revenues, amounting to 179,846*l.*, the result, upon the whole, is only a difference of 57,612*l.* Which is no great error in an account amounting to upwards of five millions of receipt, and three millions of expenditure. And it will be further observed, that of this sum no less than 30,720*l.* arises from an accidental loss by fire, which increases the military charges by that sum. If this accident had not happened to increase this article of military charges, the coincidence between the estimated and actual amount is wonderfully great, which considering the difficulty of reducing military extraordinaries within a regular standard, leads to a very comfortable observation of the accuracy and regularity of the Bengal government.

I now revert to the accounts Nos. 1 and 2, being the estimate of the probable receipts and charges for the year 1789-90. I shall make that estimate, as usual, the subject of a distinct resolution; but it is unnecessary to offer any particular observations upon it, as those which have been offered, or may be offered on the actual account of the year 1788-9 do in general likewise apply to the estimate 1789-90. Indeed the coincidence of sums is so great, that it is more than probable the estimate of the year 1789-90 has been, in a great measure, formed on the account of 1789. There is, however, an exception from this observation, I mean in the article of land revenues, in which the estimate for 1789-90 is stated at 20 lacks less than the produce of 1788-9. This is accounted for by the circumstance, that it is usual in the accounts of probable receipts to calculate upon a sum to be collected as the arrears of former years, in addition to the actual jumma, or settlement of the year, and at the same time to make an allowance for arrears to remain at the end of the year. But it appears that a larger sum of the calculated arrears was collected, and a less balance of that year's jumma left uncollected than supposed; and hence the large collection of the year 1788-9. But, in making the estimate for the year 1790, a large allowance is made for balances, that may

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remain uncollected of that year's jumma, and a smaller amount of arrears to be collected is, with proper caution, only reckoned upon.

Upon the whole, I see no reason to doubt that the estimate, both of receipts and disbursements, as stated in the two last columns of the accounts Nos. 1 and 2, may be depended upon as sufficiently accurate. By that estimate the revenues are calculated to amount to the sum of 5,609,397*l.*, and the charges to amount to 3,162,627*l.*, leaving a surplus of 2,446,770*l.*, which is pretty nearly the actual surplus of the year 1788-9, amounting to 2,436,743*l.* I have been accustomed, in former statements of the finances of India, to move a resolution founded upon the average of the three former years. I shall move a similar resolution this year, founded upon an average of the three years stated in the three first columns of the account No. 1, and that average amounts to 5,305,751*l.* It must, however, be remarked, that the receipts have uniformly increased in each of these years. So that, although the customs in Bengal (except at Calcutta and Maungee, which it has been thought expedient to continue) have been abolished, and the receipts under that head reduced upwards of 160,000*l.* (from 25 to 9 lacks of rupees); yet the general total of the receipts has notwithstanding increased.

The accounts from Madras are very deficient, and limit me extremely in the materials on which I would have wished to move the resolutions for the consideration of the committee. I am neither possessed of an estimate of the probable receipts and disbursements for the year 1789-90, nor am I possessed of an account of the gross collection of revenues, or the charges of collection for the year 1788-9. There is, however, before the committee, an account No. 4, of the gross collections of revenues for two years, 1786-7 and 1787-8, and upon an average of these two years the gross revenues amount to 1,118,364*l.* Although I shall, according to custom, propose a resolution founded on an average of these two years, I have no hesitation in stating to the committee, that they would judge too unfavourably of our revenues on the coast, if they were to consider this as the full amount of the revenues of that presidency. The fact is, that for the reasons I stated last year, the revenues of 1787-8 turned out much below what was expected, in so much that the nett revenues for the year 1788-9 exceeded the gross revenues of the preceding year. The gross collection of the land revenues and customs of the year 1787-8 amounted to 691,286*l.*, whereas the nett revenues of the year 1788-9 amounted to 724,448*l.*

I beg leave now to refer you to the account No. 6, being a comparison between the estimated and actual account of the year 1788-9. Upon that estimate I moved a resolution last year, stating the expected revenues to amount to 1,358,458*l.*, and the charges to 1,310,487*l.*, leaving a surplus of 47,996*l.* But when I did move that resolution, the committee will perhaps recollect, that I at the same time thought it my duty to observe, that I had considerable doubts upon it; and several circumstances, particularly the low produce of the former year, induced me to be apprehensive it would not be realized. The account No. 6, proves I was founded in that doubt, though not to so great a degree as I apprehended. In considering this account (No. 6,) it will immediately occur that it is imperfect; because the amount of gross collections of revenues, and the charges of collection, have not been received from Madras. In order, therefore, to make the comparison, the charges of collection, as stated in the estimate (No. 5, Appendix of last year) are deducted from the estimated amount of receipts, and opposed to the nett amount of revenues, as sent home in the account from Madras.

In stating the amount of nett revenues, it appears that the gratuity to field officers, from the commission on the revenues, is deducted from the amount of nett revenues. But it is to be observed, that as this expenditure arises from a per-centage on the nett receipts of the year, its amount cannot be ascertained until that year is completed; and therefore it is usual to estimate but a small sum to be paid on this account in the year in which it is incurred, and the remainder is provided for it in the next year's estimate, under the head of arrears of gratuity. From not adverting to this circumstance, the whole gratuity payable out of the revenues for 1788-9, was stated in last year's estimate at pagodas 21,000, although there were 45,000, estimated to be paid on account of arrears, as appears from the general abstract, No. 12, of last year's account. In consequence of this, the estimated amount of nett revenues of last

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year's account appears more than it would have done, if the total amount of gratuity for that year had been estimated to be paid within the year. And hence the difference between the estimated and actual amount of revenues, stated in No. 6 at pagodas 1,26,357, is much greater than it should in fact have appeared. Taking the account, however, as it stands in No. 6, the estimated amount of receipts appears to have been, allowing for the charges of collecting the revenues &c. 1,242,991*l.*, and the actual amount 1,213,229*l.* the difference is 29,762*l.* In like manner, the charges which were estimated to amount to 1,195,025*l.* amounted to 1,302,037*l.* making a difference of 107,012*l.* So that adding the deficiency of receipts to the excess of charges, the actual account appears more than the estimated one by 136,774*l.*, the excess of charges above the revenues of that year being 88,808*l.*

A difference so great certainly requires some explanation: but, before that is attempted, it is necessary to remark, that the accounts from which the statements were made are throughout very defective, and in no shape answer to the repeated orders which have been sent from hence, as appears from the letters on the finances of India, now before the House. It was therefore only by comparing the arrears at the end and at the begining of the year, and from which, and the account of payments made in the year, that the auditor was enabled to compute how much was paid for arrears, and how much for current charges. In such a calculation complete accuracy cannot be obtained, and, of course, it is not certain how far the increase here stated may be correct: but, taking the account as it stands, the excess of charges above the revenues appears to be 88,808*l.* Of this sum 71,642*l.* were for expenses incurred by taking possession of the guntoor circar, which being a circumstance not foreseen when the estimate was formed, ought not properly to be stated as an article in which that estimate was deficient. Indeed, the expenses of that expedition were actually paid by the Bengal government; but as the supplies from one settlement to another are not stated in these accounts, those charges are included in the disbursements, and opposed to the revenues at Fort St. George. These expenses, therefore, being deducted, the excess of charges will appear to be only 17.166*l.*

Before leaving the subject of the Madras accounts, I think it not improper to mention to the committee, that amidst the difficulties I have found of forming a decided opinion, from official accounts only, of the real state of the Madras presidency, I have endeavoured to form the best opinion I am able on the subject, by joining to official resources such other channels of information as I thought might afford me aid: the result of which is, an opinion that the revenues of Madras are not at present equal to its expenses. But I have, at the same time, the satisfaction to feel, that without injuring the public service, the means of making them so, either by increase of revenue or reduction of expense, are certainly within our reach. I shall again revert to this subject for the purpose of offering a few observations in illustration of what I have now stated.

Upon looking to the paper on your table, No. 9, you will see how little I am in a situation to afford any information on the subject of Bombay, in addition to what I stated last year. I am not possessed of the account of actual receipts and disbursements for the year 1788-9, and the three years contained in the three first columns of the accounts Nos. 7 and 8, are precisely the same as those upon which I moved the resolution of last year, respecting the average amount of the revenues, which is accordingly already upon your records. The only new account I am possessed of, is the estimate contained in the last column of the accounts Nos. 7 and 8, agreeable to which the revenues for the year 1789-90 are estimated at 138,228*l.*, and the charges at 568,710*l.*, which is revenues more than last year's estimate 2,028*l.*, and charges less 17,695*l.*, making a difference, upon the whole, of 19,723*l.* And this is the only resolution which, from the present imperfect state of accounts transmitted from that presidency, I am in a situation to move.

There are some small revenues at Bencoolen, which, upon an average of three years, from 1784-5 to 1786-7, I stated last year to amount to 2,529*l.*, and according to an average of the three last years from 1785-6 to 1787-8, they amount to 2,756*l.* From not being possessed of an estimate of probable disbursements from the Bengal government, when I last year stated the finances of India, I could not with accuracy state what the expenses of Bencoolen and Prince of

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Wales's Island were, and I took them upon a probable conjecture to amount to 60,000*l*. The estimate is now before you, and they are estimated at 65,000*l*. I thing it proper, in this place, to observe to the committee, that in the different statements I have laid before them, both this year and formerly, although I have stated resolutions on the average produce of the revenues of different years, I have never stated any resolution respecting the average amount of charges. The reason is, that while reductions of establishments were in their progress, any average founded upon such fluctuating account, would have been very unsatisfactory; but as the establishments are, I trust, nearly brought to their standard, at least as to their extent, I intend in future years to move such resolutions, in order to give this House and the public an opportunity of watching over their governments, both at home and abroad, in this important article of establishments. It was one of the great inducements I stated for the measure of an annual Indian budget, and experience has convinced me of the good effects of it, even beyond my most sanguine expectation.

In order to give you a general view of the precise amount of the Indian surplus of revenue, I shall now collect together the whole revenues of all the settlements, and from that deduct the full amount of all the charges. And in doing so, it will be recollected that, in so far as it concerns Bengal and Madras, I proceed upon actual realized accounts; but as to Bombay, from the want of a similar account, I must proceed on estimate. This, however, does not tend to throw any uncertainty on the general result of the account; for the revenues and charges of Bombay admit of so little fluctuation, that you may safely proceed on the estimate. In stating a similar account last year, the result was, that after defraying every expense of establishment, the nett revenue amounted to 1,516,119*l*.

Actual Revenues, in 1788-9.

At Bengal.....	£.5,619,994	
Madras, (nett land revenues only	1,213,229	
Bombay, per estimate, 1789-90	138,228	
Total revenues		6,971,451

Actual Charges, 1788-9.

At Bengal.....	£.3,183,250	
Madras, exclusive of revenue charges,.....	1,302,037	
Bombay per estimate for 1789, and 1790	568,710	
Total charges		5,053,997
Nett revenues		1,917,454
Expenses of Bencoolen and Pinang, as estimated in account No. 11, for 1789, and 1790.....		65,000
This is the nett revenue, after defraying every expense of establishment, and exceeds the surplus of 1787, and 1788, as stated last year, by 336,335*l*.....		1,852,454
To this surplus is to be added, as a part of the Indian funds, the amount of the import sales and certificates, which was in the year 1788-9, as per account No. 15.....		295,361
Making in all.....		£2,147,815

This sum is applicable to the discharge of the debts in India, principal and interest, and to the provision of investment, including commercial charges.

In the resolution of last year I stated the amount of the debts to be 7,604,754*l*. I shall this year state them to amount to, 6,501,385*l*. being a decrease of 1,103,369*l*. The amount of debts bearing interest is stated to be 5,260,672*l*. This, however, is not perfectly accurate, and ought to be somewhat less; for crs. 17,88,982 have been transferred since the 30th April 1789, and of course would no longer bear interest in India than the date of the transfer. The amount bearing interest was stated in last year's accounts at 5,776,244*l*. Decrease of debt bearing interest 515,572*l*. The interest payable in India was stated last year to be 480,702*l*. Amount payable on the sum above stated 438,426*l*. Decrease of interest 42,276*l*.

From this view of the surplus of the revenues of India, 2,147,815*l*. of the debts, and the interest payable upon them, 438,426*l*., the committee will observe, that, deducting the interest of the debts now

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payable in India, the surplus remains, as I have already stated, at a sum not less than 1,709,389*l.*

Before quitting this subject of the debts the committee will naturally be desirous of knowing what reduction of debt has been made since the last time I had the honor of addressing them on this subject. The committee will recollect, that the defective materials from which the accounts of debts were made up last year, obliged me to state the debts at Bengal so far back as the 31st January 1788, at Madras on the 30th April, and at Bombay on 31st October 1788: any comparison therefore, which is made between the amount then stated, and the amount due on 30th April 1789, must be manifestly inadequate to show what progress has been made in the reduction of the debt in India in the course of the year.

There is, however, before the House, an account of amount of debts as they stood on the 30th April 1788, which account may be properly compared with the one now stated. By that account the amount of debts in India, on 30th April 1788, is stated at 8,194,605*l.* To which is to be added the debts at Bencoolen, which are not included in that statement (per last year's account), 67,983*l.* And a further sum now stated in the account No. 16, for arrears to the southern army in 1783-4, at Bombay, not included in the quick stock 58,000*l.* Total of debts in India, on 30th April 1788, by these accounts 8,320,588*l.* But from this sum is to be deducted the amount of certificates not issued, as has been done in computing the debts on 30th April 1789, in No. 16. These amounted to, on 30th April 1788, per quick stock 289,453*l.* The remainder is the amount of debts on 30th April 1788, 8,031,135*l.* The amount of debts on 30th April 1789, 6,680,284*l.* Decrease of debts between the 30th April 1788, and 30th April 1789, 1,350,851*l.* What part of this sum has been transferred between the 30th April 1788, and the 30th April 1789, is stated in an account I moved for two days ago, for the precise purpose of ascertaining this fact; and by that account it appears, that the sum transferred between the 30th April 1788, and the 30th April 1789, is 897,589*l.*, which being deducted from the total decrease of debts leaves, as the amount of debt actually discharged within the above periods, 453,262*l.*

There is still another point, on which I wish to anticipate what I naturally suppose will be the expectation of the committee, I mean the appropriation of the surplus of the year 1788-9.

	£	
Amount of the surplus, before stated	2,147,815	
Interest to be paid out of it, as per last year's account, No. 16	480,702	
Nett surplus		1,667,113
Prime cost of cargoes shipped for Europe in 1788-9	1,015,642	
Supplies to China in the year	132,695	
Commercial charges	109,472	
Debts paid in the year	453,261	
		1,711,070

This amount indeed appears to be larger than the surplus above; but it is to be observed, that the interest stated above, as paid in the year, is taken from last year's statements, and may vary somewhat from the actual amount incurred in the year. Bills also to a small amount were drawn in the course of the year on the court of directors, which are not included in the account of the receipts; and the whole of the accounts respecting Bombay are taken upon estimate. Such, however, appears to be an account of the appropriation, according to a rough computation of it from the materials before me; at the same time the committee will observe, it is not such an account as I can pledge myself for, as an account of actual appropriation, being formed from a combination of different accounts, and not exhibited as one transmitted from India with that express view. In future years I hope to bring that circumstance to a greater degree of accuracy, by ordering an account to be sent home directed to that special object.

Having thus submitted to your view the state of the British empire in India, with respect to its finances, at the present moment, it may not be improper to inquire how far there is a prospect of permanency in the statements I have given. The answer to such a question must, in general, depend upon the continuance of the public tranquillity of the British empire; and I think I need not use many words to prove, that of all parts of the world, at this moment, the peace of India

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is the least likely to be disturbed by an European force. The situation of France, and our connexion with the Dutch, as applicable to this view of the question, are circumstances too well known to require any particular detail: and, since I last addressed you, there is no reason to doubt, but that the French have abandoned Pondicherry as a military station. With regard to the continent of India itself, there is a profound tranquillity existing there; and if we continue in the same course of moderation and good faith we have done for some time past, I do not conceive we have any thing to apprehend from an Indian enemy. Peace certainly is of great moment to every part of the empire; but, with regard to India, I have no hesitation in saying, that a very few years tranquillity is sufficient to relieve it from every embarrassment, and the East India company from every burthen under which they at present labour.

Notwithstanding, however, what I have stated, I should be uncandid, if from a wish to obtain the triumph of a moment, I was to lead the committee into an expectation that every particular article of revenue would remain at its present height. With regard to the land revenues, which is the great and important article of Indian resources, I entertain no doubts whatever; but with regard to the article of salt, I would not wish the revenue arising from it to remain as high as at present, unless I was satified of two propositions: first that there was a great increase of the population of the country; and secondly, a proportional increase of the manufacture itself. In a country where the great body of the inhabitants are Gentoos, and whose chief food is rice, salt is certainly, in a peculiar degree, a necessary of life. The price of it, at present, is too high; but we know that the illustrious character who at present presides over the interests of Great Britain in India is sensible of what I now state, and has taken the proper means to counteract the bad effects of those combinations, which the failure in the produce of the salt manufacture has of late occasioned. An obvious method of doing this is, by allowing the importation of such quantities of salt from the coast of Coromandel as will be effectual to keep this necessary article at a rate sufficiently low for universal consumption. In doing so, it will be necessary to make a sacrifice of revenue, but the object to be obtained is well worth the price, although it should amount to two or three hundred thousand pounds per annum.

In mentioning so large a sum, however, let me not be understood, as if I meant to convey an idea that to such an amount there would be a diminution of the Indian surplus. I entertain no such apprehension; for not to mention the beneficial consequences which must result from the important arrangements that have been made, and are at this moment making, for the general prosperity of the country, I have the satisfaction to feel, that very considerable diminutions may be made in the expenses. I mean not by a reduction of established salaries, as now fixed, for I agree with lord Cornwallis in what he states in one of the letters upon your table, that the salaries of those employed in great and responsible situations ought to be handsome and liberal; but I am perfectly satisfied there may be reductions made in the establishments. No man feels more than I do the expediency of lessening the drains which the governments of Madras and Bombay make from the revenues of Bengal; and I am satisfied that the expenses of both may be considerably diminished, without prejudice to the public safety.

I have already alluded to the evacuation of Pondicherry, a circumstance which it is, no doubt, our duty to avail ourselves of. Another very important transaction has lately happened, which must also produce a considerable saving. The committee will recollect, that some years ago a great addition was made to the military force of the Bombay government. One of the principal objects of that addition was, to station a considerable force at Tellicherry, as a check on the ambition of Tippoo Saib. Previous to the departure of sir Archibald Campbell from Madras an arrangement took place, in consequence of the entreaties of the king of Travancore, an old and faithful ally of the British nation in India; who, naturally apprehensive for the situation of his frontier, which borders on the Mysore country, applied for and has obtained a detachment of our troops to protect him from the inroads of Tippoo Saib. These troops are paid by the king of Travancore; in consequence of which there must be a corresponding saving of expense at Madras; but it operates still more at Bombay, for it in a great measure supersedes the necessity of a military

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station at Tellicherry, and must, of course, reduce the expenses of that government.

It is unnecessary for me to detail this subject more at large at present: suffice it to say, that I am perfectly satisfied, from various considerations, that very important savings may be made. Orders for that purpose will go out by the ships of this season, and I have perfect reason to know, that the noble lord, to whose share it will fall to execute these orders, will do it with cheerfulness; not only because it is his duty to do so, but because they coincide entirely with his own opinion. I cannot conclude without calling the attention of the committee, in a particular manner to the 46th paragraph of lord Cornwallis's letter of the 2nd August last, upon the table, wherein he says, "the public credit of this government has improved beyond the most sanguine hopes that I could have indulged a twelvemonth ago. The discount upon our certificates has not, for some time past, amounted to 1½ per cent. I have been told every year, and with propriety, that this circumstance was the only sure criterion of the credit and prosperity of the country. If it is so, I am sure we have now perfect reason to be at ease on that score. So small a discount is, in truth, a premium, considering the interest those certificates bear, compared with the legal and common interest of the country, which is 12 per cent., whereas those certificates bear only 8 per cent.—Mr. Dundas then moved his first resolution, relative to Bengal.

Mr. *Hussey* said, that the company had, for years past, applied for leave to borrow more and more money, which was, he thought, rather an ill symptom of prosperity. In the course of the last eight years they had borrowed twelve millions. He had moved for an account of their profit and loss for those eight years; however, he could find no account of profit, but an account of loss to the amount of twelve millions. In the paper he held in his hand, they took credit to themselves for 1,740,000*l.* on account of the loan they were empowered to make last year, and only debited themselves for one million. Where was the other 740,000*l.*? He thought the obscurity in the account that he had adverted to, called for some explanation.

Mr. *Ryder* contended, that the company had increased in their assets in the course of the past year to the amount of nearly two millions.

Mr. *Tierney* said, that as he had moved for a number of papers relative to Indian affairs, it would naturally be expected from him that he should state the grounds upon which he had called for those papers. He was prevented, however, by indisposition from endeavouring to do justice to his own sentiments on the subject. He did not mean to insinuate that he was in a consumption, or seriously ill; his disorder was rather inconvenient than dangerous (a violent swelled face); he might get rid of it in a few hours, but it gave him infinite pain to speak at all. If the right hon. gentleman however would consent to postpone his report till after the holidays, he would pledge himself to prove that so far from there being a surplus on a balance of the revenues in Bengal equal to two millions, there had not been any profits on the company's trade, on an average of the last five years; but, on the contrary, a palpable loss and deficiency. If the right hon. gentleman meant to hurry the report, and insisted on bringing it up the next day, he would wait till the debate was over in the committee, and name a day after the holidays, on which he would bring the whole of the subject again under consideration; being ready to meet the right hon. gentleman on any day he pleased.

Mr. *Dundas* said, he would postpone the bringing up the report with all his heart.

Mr. Secretary *Grenville* flattered himself he could reconcile the apparent deficiency stated by the hon. gentleman (Mr. Hussey). The difference he understood to be 740,000*l.*, the statement of the whole of which was easy to be accounted for, by sums paid by the company, which the company had, for different reasons, not thought themselves warranted to bring into their account: the first was 300,000*l.* paid in the course of the present year to government, in part of an unliquidated claim on the side of government, which could not be correctly stated, and therefore the company had paid it on account. The next was 270,000*l.* interest, which they had taken credit for beforehand. Due to the army at Bombay, 50,000*l.* On certificates not issued, 100,000*l.*, and 20,000*l.* paid at Madras since the account of 1788-9 was made up. These sums put together would make up the 740,000*l.*

Mr. *Francis* said, that when he saw the right hon. gentleman coming into the House loaded with papers, and while he

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was listening, with all the attention in his power, to that everlasting detail of estimates, comparisons, accounts, and calculations, with which he had endeavoured to make out a few simple propositions of fact, which, if they were true, might and ought to have been proved to a popular assembly, in a plain, popular, intelligible method; it occurred to him that he could not better introduce what he had to say on the subject, than by a quotation from the famous speech of Ulysses:—

"Si mea cum vestris valuissent vota, Pelasgi,
"Non foret incertus," &c.

If the right hon. gentleman's wishes, in which he heartily concurred—if his promises and predictions, to which he could not assent—had been really and substantially accomplished, it would not, at this day, have been a matter of so much apparent uncertainty; it could not have been the subject of precarious estimate and calculation; and it would not have required such a multitude of figures, and such an infinite series of computations, to prove that India was in a state of prosperity, and the company's affairs in a flourishing situation. It was impossible for the House to follow or comprehend such voluminous accounts. The true, the proper, and the only intelligible proof of the propositions in question, would have been to have produced a short and simple account of debts paid off, of investment purchased with a surplus of revenue, of nett profit upon that investment, and of a thriving, happy, industrious people in the Indian provinces under our dominion. What signified all the right hon. gentleman's arithmetic, when the notorious facts were that we had no return from India, but a return or transfer of debts, which the company could not pay, and which sooner or later must fall upon the shoulders of England; when the company, instead of discharging their bonds, and clearing themselves from the burthen of their debts at home, were every year coming to parliament for assistance, for leave to borrow more and more money, for an authority to increase their capital, which was only another name for running into debt, or for the direct power of the legislature to protect them against their creditors, either by authorizing them not to accept, or not to pay the bills they had accepted. By such acts, done under such protection, any other commercial person, whether corporate or individual, would be instanter a bankrupt; and finally, when the letters from lord Cornwallis, now lying on the table, described Bengal as a declining and almost ruined country. The evidence on that side was direct and palpable, it came home to every man's understanding, and was such as all the powers of arithmetic could never remove or refute.

He should not enter into the state of the company's affairs at home, as that part of the subject would be discussed by persons better acquainted with it than he was. He protested, however, against any distinction which had been, or might be, set up between the company's situation abroad and at home, as if they were not one and the same corporation in both positions, or as if it were possible for them to flourish in India, while they were going to ruin in England. By transferring a debt of six millions from India to Leadenhall-street, you certainly relieve the government of Bengal. But the burthen still lies on the company, and if they should be unable to discharge it, it must fall on the public. The transfer was authorised by parliament, and the security, thereby given to the creditors, was a parliamentary security. He said his principal object was to consider the state of Bengal, but he first begged leave to mention a particular fact which had accidentally come to his knowledge. Having lately had occasion to sell a few India bonds, he found, that in the course of a day or two, there had been a fall in the premium to the amount of 25*s.* without any apparent cause. On inquiry he was told that the company had lately contracted for 1,200,000 Spanish dollars for exportation to China, which they proposed to pay by certificates of 100*l.* each, bearing an interest of 4 per cent., and to run for three years. This, Mr. Francis said, was contrary to the company's usual mode of payment for goods for foreign markets. They had, however, been forced to recall these certificates, finding that, in fact, they were bonds, and by law could not be issued. It was, he said, the expectation of this issue of new bonds, which, within this fortnight, had lowered the premium on the bonds in the market from 117*s.* suddenly to 93*s.* They had since got up again, because the company had found out, that they were restrained by law from issuing the certificates they intended to do, to the amount of 255,000*l.* The Company had also taken up 850

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tons of tin, value about 55,000*l*., to be paid for in two years; whereas such articles before had usually been paid for, either by immediate ready money, or within six or eight months after delivery. Copper also, he knew not to what quantity or what amount, the company had contracted for; to be paid for at the same period as the tin, and this contract, he should apprehend, was by no means a small one.

These measures, he observed, were so many indirect ways of extending their credit. They wanted to issue certificates against law, they took up goods at long credits, which formerly they used to pay for with ready money, and, while they pretended to be in affluent circumstances, were every day running deeper and deeper into debt. With regard to Bengal, the right hon. gentleman had said, that the jumma being collected entire, was a proof of the prosperity of the country, and that therefore Bengal was most prosperous. Neither the premises nor the inference were founded on fact, since an oppressive government might get their revenue entire, and the country be nevertheless rapidly going to ruin. They had heard the right hon. gentleman also tell them, that there would be a surplus of two crores of rupees. And yet no part of the Indian debt could be paid in India; for lord Cornwallis expressly stated in his letter of the 7th of March 1789, that the debts in Bengal could only be paid "by the diminution of their investments, or by the remittance of a large sum of money from Europe for the purchase of their investment." It is true that lord Cornwallis and council, in their letter of the 12th of March, 1789, say "We have every reason, from a view of the aggregate amount of the Bengal resources, compared with the probable disbursements, to confirm you in the expectation of drawing from hence a surplus revenue of more than two crore of current rupees:" but how is that declaration to be reconciled with the preceding? If you have a real, effective, annual surplus in Bengal of two millions sterling, why is no part of it to be applied to the discharge of debts in India? Why must you diminish the investments, or make a remittance of a large sum from Europe? A profitable, well-chosen investment in Bengal ought not to cost more that 70 or 80 lacks. What becomes of the remainder of the surplus? Is it all devoured by the establishments of Madras and Bombay? What is that but saying that those two settlements are ruined, and that all the little surviving wealth of Bengal is wasted to support them?

Mr. Francis proceeded to take notice of what Mr. Dundas had said respecting the revenue arising from salt, which the right hon. gentleman had, he owned, spoken of in a manner extremely pleasing to his feelings. The right hon. gentleman had truly stated salt to be a necessary of life in Bengal more than in any other country. It actually was so, and nature seemed to have considered the circumstance, as it had made salt one of the cheapest manufactures of the country. They could get it there for next to nothing, if an oppressive revenue were not derived from it. This was seen and known by a noble friend of his, to whom they were indebted for every thing they possessed in India. Whether ultimately they had or had not been better without any acquisition in India, might be another consideration; but the noble person to whom he alluded was the late lord Clive. The principle handle made use of in 1767, to run down and ruin the late lord Clive, was the monopoly of salt, betel nut, and tobacco. Yet by the terms of that monopoly, it was specially provided, "That the price of salt, sold by the society of trade, should never exceed 200 rupees per 100 maunds;" and Mr. Bolts, who stretched every thing to the utmost, that could be brought to bear against the government of lord Clive, stated 500 rupees per 100 maunds, as the highest price to the consumer. The selling price of the company at Calcutta, appeared, to have been in August, 1789, about 900 sicca rupees per 100 maunds. At one period within these two years, the price, at the company's sale, had got up to the enormous amount of 700 sicca rupees, insomuch, that when the merchants, who had purchased at this rate, attempted to sell at a proportionate increase for profit and charges, it was found that the people must universally perish for want of salt, and lord Cornwallis was forced to issue a proclamation, stating, that "The governor-general in council having reason to believe that much distress is suffered by the natives from the present enhanced price of salt, his lordship proposes to increase the quantity of salt in the market, by directing another sale on the 1st of next month. If these means should not be

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found effectual to lower the price of salt to the consumer, the governor-general in council will determine on such other measures as his lordship may judge necessary for that purpose." Supposing the final retail price of salt, in the provinces, to be 700 sicca rupees per 100 maunds, it would then cost the consumer 2¼*d.* per pound English. An individual native would, as long as it was possible for him to get it, consume half a chittac, or one ounce per day; consequently a family of five persons, living on the labour of one man, must spend 5-16ths of 2¼*d.* in salt, or about three farthings a day. The medium price of labour throughout Bengal, is one anna and a half per day, or 3½*d.* English. Consequently, when he has paid for the salt, without which his vegetable food would be poison to him, he has just seven farthings a day left to provide himself, a wife, and three children, with every other necessary of life, and to pay some rent for a mud-house; and without any allowance for salt for his cow, if he has one, for without salt the cattle in that country cannot exist for any useful purpose. When salt is at 700 rupees per 100 maunds the lower classes of natives cannot afford it, and they have recourse to burning the bauble-tree, and plantain, to extract a saline essence from the ashes. During lord Clive's monopoly it never exceeded 350 in the lower provinces, and 500 in the upper provinces. So that what was intolerable in lord Clive's time, when the country was rich, must be ten thousand times more so now, when salt had got up to such an enormous price as 700 sicca rupees per 100 maunds.

He would now come to the letter of lord Cornwallis, dated August 2, 1789, but first he would premise, that he had a great respect for the character of lord Cornwallis; he believed him to be a man of pure hands and upright intention, which were undoubtedly essential requisites, and rather extraordinary in a governor-general of India. He had a high opinion also of lord Cornwallis's military talents, but they were totally foreign to the questions of that day's discussion. As a man of private virtue he esteemed lord Cornwallis; whether he was altogether qualified for his present station, and was sufficiently versed in the arts of governing a large empire, was another consideration. The observations he might think it necessary to make on some passages in his lordship's letter might perhaps appear less favourable; he begged, therefore, beforehand, that they might not be imputed to any want of respect for that noble lord; were he present, he would say what he was about so say. Indeed, he doubted whether the letter was written by lord Cornwallis himself, or came chiefly from the assistance of Mr. Shore. "The scarcity of property, however, and the certainty which each individual will now feel of being allowed to enjoy the fruits of his own labours, must operate uniformly as incitements to exertion and industry." This was stated by lord Cornwallis in his letter, as a perfectly new observation; an old, established, eternal truth, for who ever doubted that security of property, and the certainty of every individual being allowed to enjoy the fruits of his own labours, would incite him to industry and exertion? But it was to be observed, that lord Cornwallis used the phrase "will now feel," which was a prety plain confession of the misery and oppression the inhabitants had long suffered, and therefore, Mr. Francis said he conceived he had a right to argue, that lord Cornwallis's evidence of the ruinous state of the province of Bengal for years past was conclusive in favour of the opinions he himself had often delivered on that subject. But the letter proceeded thus: "And I have purposely, in these settlements, proposed to withdraw the gunges from the zemindars, and to place them in the hands of government, in order that it may at all times have an unrestrained power to raise or lower the internal taxes or duties on particular articles of produce of manufacturers, as may be found most suitable to the general interests of commerce; but above all, as the land revenue, when the jumma, is once fixed, cannot increase, that the company may, through the medium of duties upon an increased consumption of the necessaries and luxuries of life, participate in the wealth and advantages, which I trust, will be the consequences of a permanent revenue settlement to the inhabitants of this country." Mr. Francis made a few comments on this passage: great merit, he observed, had been taken last year from the abolition of the government customs, which arose chiefly from these gunges, and he had been one of the first to give the right hon. gentleman credit for it. Why not then abolish the gunges (or market duties), altogether? But it was observable that such was the miserable

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state of India, that a governor general dares not propose any thing, however wise and humane, for the benefit and relief of the natives, if it is likely, in the smallest degree, to lessen the revenue without accompanying it with some lure to the directors, to convince them that if they lose in one point, he has taken care to suggest another, by which they may be gainers. In the passage of the letter that he had just read, lord Cornwallis gave the people of the country a *quietus* in an essential point, viz. in a permanent revenue, settlement, or fixed land tax, and at the same time advised the company to tax the necessaries of life. Would he have them increase the tax on salt? and as to luxuries, what were the luxuries of life to a Hindoo? Rice and salt were necessaries: would they tax them any more in a country so impoverished? Or did they expect to get any thing by a duty on betel nut and tobacco? Or would they tax oil and ghee; a clarified butter, made from the milk of buffaloes, which the Hindoos would not take if they could get any thing better, and which a European detested. In the next section of the letter, lord Cornwallis assures the directors, "that it will be of the utmost importance that the principal land-holders and traders in the interior parts of the country should be restored to such circumstances as to enable them to support their families with decency." Had the right hon. gentleman been year after year boasting of the prosperity of the province of Bengal, and was it only in 1790, that it was recommended that the principal land-holders and traders in the provinces should be restored to the power of supporting their families with decency? This was a fresh proof of the miserable and ruinous state of Bengal. The next paragraph confessed that agriculture and internal commerce had for many years been gradually declining, and that at present excepting the class of shroffs and banyans, the inhabitants of these provinces were advancing hastily to a general state of poverty and wretchedness; and lord Cornwallis said, "in that description he must also include almost every zemindar in the company's territories." These facts, Mr. Francis said, he told them long ago, and therefore he concurred with lord Cornwallis, when he said, in the same paragraph "that these miserable effects were owing to the bad management of the late government." With regard to a general new coinage of silver recommended by lord Cornwallis, he considered it as impossible to be carried into practice; for how could a recoinage take place in a country where there was no silver? and how could it be performed by a government which never had any cash in its treasury? They had felt the want of silver currency long ago, and had issued gold mohrs in payment; and the consequence was, they fell an eighth immediately, and soon afterwards much more. In order to get at a general coinage, they must have much bullion in their treasury; it was idle to attempt it otherwise.

Lord Cornwallis, next mentioned the paragraph relative to opium, and said, "he doubted not but the relief given to the ryots may occasion some increase of price on the offers that will be made by the candidates for the contract; but he was persuaded, that the loss would be more than compensated to the company by the encouragement that would be given to the ryots to extend the cultivation of the poppy." Thus, lord Cornwallis dares not tell the company of a loss without always offering a compensation. Mr. Francis reprobated the extension of the cultivation of opium, for poppies were the most noxious weed that grew; had it been an extension of the cultivation of grain, he should have thought the suggestion a laudable one. The right hon. gentleman had said, that it was always customary for him to ask what was the discount on company's paper in India, and had declared they were at 1½ discount only; he had never declared the lowness of discount a proof of the wealth of the company in Bengal, but merely a proof of the credit of the government, inasmuch as it proved that public credit was improved; but it was not a circumstance to be wondered at. In a country where there was no trade, no private security, nor other emolument, every man who had any money, must either bury it, or take government securities at 8 per cent. This it was that had lowered the discount, and this very thing was a proof that the country was ruined. Another matter he had like to have forgotten was the certificates. He found the amount of certificates out-standing, at eight per cent. to be 1,66,80,606 current rupees, from this is deducted 39,48,021, not issued. How that, which is not issued, can be out-standing was to him a question. But admitting this de-

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duction, the whole quantity was stated to be 1,30,06,676, on the 30th April, 1789. On the 31st July, 1786, it amounted to 1,48,16,124, consequently the reduction of this most embarrassing and burthensome part of the company's debt had only amounted to 18,10,048 current rupees in three years; and must have been increased again in 1789, to furnish advances for the investment.—Mr. Francis concluded with declaring, that the flattering account the right hon. gentleman gave them year after year of the flourishing state of the company, when it was in a rapid decline, reminded him of that sort of physician who again and again assures the family the patient is mending apace, and then comes one morning and finds him dead. In like manner, he was persuaded, would the right hon. gentleman, notwithstanding he continued to flatter them from time to time with accounts of the growing prosperity of the East India company, come down to that House some day or other, and say, it is very true, the company was in a promising way, but unfortunately its credit and its means are both lost together.

Mr. *Devaynes* said, that he had listened to the complaints against the company's exports from this country with much astonishment. With regard to the silver, the fact was true, that they had contracted for 1,200,000 dollars; but the hon. gentleman must have very early intelligence to be able to state that they had been forced to change their plan, because the truth was, they had not yet given the brokers any answer what they should do, but were to meet this day to decide how they should act. It had been suggested to them that they could not legally comply with the condition of the contract, and therefore undoubtedly the brokers could not oblige them to make good an illegal bargain; but they were ready to pay for the silver to-morrow. Mr. Devaynes stated that 850 tons of tin was a mere trifle in point of cost, and that it was taken by the company at the desire of government, and with a view to relieve the suffering tin-mine owners, rather than with any object of advantage to the company, but that by taking it, the company had obtained a reduction of the export duty, which might prove a very beneficial advantage to tin mine proprietors.

Alderman *Le Mesurier* said, that the dollars in question was so much silver purchased by the company over and above the usual quantity sent out every year to China; that the company had purchased and sent their usual annual quantity away, having first paid for it, for their cloth, their lead, and every thing they had shipped this year; and they had besides paid for goods, now packed up, to a large amount. The dollars alluded to would only amount to 250,000*l*., and could be paid for directly. The company took the utmost pains to increase their exports for the benefit of this country; the tin they had taken was a speculation grounded on a wish to promote the export of that article, and afford some relief to the suffering tin-miners. He was persuaded, if any private individual enjoyed the powers of the company, and was in possession of the wealth of Mexico and Peru, he could not more anxiously endeavour to promote the interest of the trade, commerce, and revenue of this country. With regard to lord Cornwallis, the company were infinitely obliged to him. He had exerted himself with great success in their service, and he scarcely believed it would be possible for them to leave Bengal in better hands. In respect to the duty on salt, he did not believe it was oppressively collected; the salt revenue was not altogether above 5 or 600,000*l*., and that was levied on eighteen millions of inhabitants.

Mr. *Fox* contended, that the high premium upon the bonds of the company proved nothing. In fact, the price of bonds was a most unfair and false criterion to resort to, for the purpose of ascertaining the prosperity of the India company. Bonds were convenient securities, payable at a short date, being obliged to be received as cash at the company's sales. But even with respect to the company's bonds, no argument like that attempted to be supported would hold, because the real value and increase of premium depended on the comparison of the rate of interest; bonds now bore 4 per cent. interest, and formerly much less, and yet the premium was then higher. But a better criterion was, the price of India stock, which was about 174 at present, while bank stock was 185. India stock bore 8 per cent. interest, and bank stock only 7. Therefore, bank stock, with a smaller interest, was at a higher price. Again, look at the 4 per cents. and India stock would be found to be in lower estimation than any of the government funds.

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Mr. *Dundas* said, that the terrific exordium of the speech of the hon. gentleman (Mr. Francis) had filled him with astonishment. The hon. gentleman had set out with saying, that before he sat down, he would prove the desolation of India, and the bankruptcy of the company. And how had he proceeded? He had declared, that he could not make out matters, which any man who had sat a single hour at the board could comprehend. With regard to India bonds, it might be true, that they would prove conveniencies; but was it any argument to show that the company were advancing hastily towards a bankruptcy, that in 1784, when the ever-memorable India bill was in agitation, the company's bonds, bearing 5 per cent. interest, were at a large discount, and that now they were at 5½ premium, when they bore only 4 per cent.? No man living, he believed, but the hon. gentleman could possibly have read lord Cornwallis's letter in the manner and commented on it in the spirit that he had done. Let any man of candour and of liberality read that letter, and he was convinced he would pronounce it a letter as full of wise suggestions, humane considerations, and politic principles, as ever came from the pen of a statesman. The hon. gentleman had misrepresented the meaning of lord Cornwallis in almost every passage he had quoted. From that letter he had endeavoured to draw an inference, that there was not a surplus of two millions arising from the excess of the revenue over the charges, and various other sources of surplus, when there was not one syllable in the letter to warrant such an inference. Let the hon. gentleman recollect, that lord Cornwallis went out to India only four years ago; that instructions were sent to him to make a permanent settlement; that he sat about it instantly, and in 1789 wrote home the account of the operation and effect of the plan when put into practice? But, did the noble lord draw a single inference of India not being in a prosperous situation? On the contrary, he expressed his satisfaction at what had already been performed, and his well-grounded expectations that equal success would attend what remained to be performed. If it were asked, what lord Cornwallis had done? The answer was prompt and at hand. He had emancipated the manufacturers of soap; he had set the weavers free; he had, in various great and important instances, disencumbered the artist and the artisan; in a word, the proofs of his successful exertions were numerous, and they were still proceeding. As to the hon. gentleman's alarm about the opium of the country being increased in its cultivation, he had ever understood that it had been considered a reproach to the company that they took so much silver out of England; and therefore, he rather wondered at the hon. gentleman's arguing against the increased cultivation of opium. Did he not know, that opium was a great article of commerce in Asia?—that the more opium was exported from India to China, the less bullion need be exported from England to India? Might not the hon. gentleman, as he professed himself to be a humane man, a moral man, and a man of liberality, have viewed the favourable side of the question? Might he not have found out, that lord Cornwallis's proposition to withdraw the gunges out of the hands of the zemindars to place them in those of government, signified that he wished to prevent instead of increasing the oppression of the natives? The hon. gentleman had put all the debt of Bengal in addition to one side of his account, and then struck a balance with the other, which was a mode of striking a balance just as unfair, as if at the end of the last war the hon. gentleman, viewing the unfunded debt on the one side, in addition to the annual expenditure, and the mere annual revenue on the other, had exclaimed, that we were all ruined!

After some further conversation between Mr. Baring, Mr. Francis, Mr. M. A. Taylor, Mr. Pitt, and major Scott, the several resolutions were agreed to, and the report was ordered to be received on the 19th of April.

Government of Quebec.] Mr. Secretary *Grenville* begged leave to trespass upon the attention of the House, whilst he adverted to the new constitution about to be provided for the province of Quebec, a subject to which a right hon. gentleman (Mr. Fox) had alluded a few weeks before. Unfortunately he stood in the same situation still, in which he had then described himself to stand, and as the House was expected to adjourn the next day, for the Easter recess, he thought it his duty to explain to them what had been his conduct touching the important object to which he referred, submitting the whole to the consideration of the

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House, and leaving it to their candour to decide whether any blame was justly imputable to him. The House would recollect, that in July last, his majesty had been pleased to raise him to the post which he then had the honour to fill. At that time the House was engaged in the midst of the business of the session. Till parliament was prorogued he was wholly engaged in attending his duty in that House, and in making himself acquainted with such important business as it was indispensably necessary should be communicated to him on his coming into the office which he now held. As soon as parliament was prorogued, he applied himself to the business with the utmost care and consideration. The House would naturally see that it must unavoidably cost him some time to study the subject, to digest his own opinions respecting it, to compare them with the opinions of others of his majesty's servants, who had it much earlier in their contemplations (many of whom were at the time at a considerable distance from that place) and after he had made himself master of the subject, and formed, what he thought, a practical plan, to submit it to the judgment of others, and ultimately to receive his majesty's commands upon the point in question. With great application, and unremitting industry, he had been able to accomplish all these objects in less than three months, and had not formed a mere design or outline, as the ground for a future proceeding, but had actually matured the whole, and reduced it to the shape of a bill, such as he thought fit to be submitted to the consideration of that House. But though he had proceeded thus far, he certainly felt that there were many points of detail which required local assistance, and could not be hazarded without the advice of those who alone were capable of advising on the occasion. He had, therefore, thought it his duty to consult lord Dorchester on the subject, and with that view had sent him a letter enclosing the bill. Unfortunately, the packet did not perform its voyage in the usual time. Had that been the case, in all probability, he should have been able to have received lord Dorchester's return of the bill, with his observations upon it, in time to have been able to have introduced the bill early in the present session. The packet, that carried out the bill, arrived in due time at Halifax, but was immediately blown out of the mouth of the harbour, and obliged at last, to make for the port of New York; it was, therefore, a very considerable time indeed before the dispatches could be conveyed to lord Dorchester: in all probability his letter did not reach that noble lord before the very period, when, under different circumstances, he might, reasonably, have expected a return and reply. From this cause, he yet remained without either, but as in two months and a half from the prorogation of the last session, he had been able to send out the bill, he trusted that the House would not be of opinion that he had lost any time; and he must beg leave to disclaim having ever pledged himself to the House as to the subject; but, let the person be who he might that had made any such pledge, as was alluded to, he conceived from the circumstances of the last session and those which he had described, no blame could any where be fairly imputable. He added, that it was possible, though only scarcely possible, that the dispatch with lord Dorchester's answer might arrive in the ensuing Easter recess. In case it should be in his power to present the bill within a very few days after the House met again, he certainly would embrace such an opportunity. But as they were actually arrived at the eve of the Easter recess, and there could not remain a great deal of business to go through after the holidays; and as, for other reasons, it was not likely that the House would experience as full an attendance as there ought to be when a subject of so much magnitude should come under discussion, he did not think it fit that the bill should be brought in, unless it could be brought in very early indeed after the next meeting of the House. Therefore, as the right hon. gentleman, in their last conversation on the subject, had mentioned an idea of an individual member having the matter in contemplation, and might possibly wish to introduce some bill of his own, he had thought it due to the right hon. gentleman to state the situation in which he stood, that the right hon. gentleman, or any other gentleman who intended to offer any propositions of their own upon the subject, might have the opportunity of revolving the matter in their minds during the Easter recess. He declared that he was conscious it would prove of infinite advantage to the measure that it should be brought forward early,

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and, although he flattered himself, that the bill he had sent out, might be rendered by the improvement it would derive, from the amendment of others in that House, so far perfect, as to be productive of many solid advantages to the province of Quebec, and thence looked forward to the enjoyment of the best satisfaction which an honest man could feel—the consciousness of having contributed, by his industry and attention, to the happiness of others; he nevertheless thought it fair to state, that under all the circumstances which he had described, although it was possible that he might be able to introduce the bill in the course of the present session, it did not appear altogether probable.

Mr. *Fox* assured the right hon. gentleman, that he had neither meant what he had said as personal to him, nor had he any right so to have applied it; but he had lamented, and he did still lament, the strange situation in which that House and the public stood with regard to the consitution of the province of Quebec. In the spring or summer of 1788, that House resolved, that early in the next session it would take into its consideration the petitions of the inhabitants of Quebec, and enter fully upon the subject. The next commenced in March, because undoubtedly till his majesty's happy recovery, there was no commencement of the session. From the circumstances which every gentleman knew full well, the business could not be brought forward last session, and now, just before the Easter recess, in the third session, they were to be told, that nothing could be done, and that the business must go over to another year, because a ship, with an answer from lord Dorchester, had not arrived. He could not, therefore, but extremely lament the disgrace that was thus drawn down upon that House. He was aware that the right hon. gentleman was not in his present office when the House had been pledged in the manner in which he had stated; but the right hon. gentleman was certainly connected with the administration of that day, which was nearly the same as it stood at present; and surely they must have turned the subject in their minds at the time, and could not have thought very differently from the right hon. gentleman. It was, therefore, rather surprising that upon the right hon. gentleman's coming into his present office, he should have undergone all the trouble which he had described. The whole administration in 1788 concurred in the resolution which pledged the House to take up the business early in the next session. If it was then known, that it would be necessary to send out to lord Dorchester, previously to proposing the business to that House, he thought it was a little rash in the person who pledged the House, and in administration who suffered it; because it was a pledge, which he who made it, whoever he might be, was not certain of being able to redeem. Mr. Fox added, that in consequence the House was disgraced; and therefore he could not but lament, that however advantageous the right hon. gentleman's being placed in his present situation might be in other respects, it had not proved so advantageous to that House on the present occasion, since it had evidently been the cause of the disgrace under which the House laboured. With regard to the proposition coming from any individual member, he had never undertaken any such task; an hon. friend of his (the member for Northamptonshire) had, two or three years since, stood forward upon the subject: at that time his majesty's servants declared they were engaged upon it, and as there was a greater propriety that the matter should be undertaken by government, it had remained in their hands.

Debate in the Commons on the Isle of Man Bill.] April 12. The order of the day for the second reading of the Bill "for appointing commissioners to inquire into the extent and value of certain rights, revenues, and possessions, in the Isle of Man," having been moved and read, the petition from the House of Keys, the representatives of the people of the Isle of Man, praying that the bill might not pass into a law, and desiring that they might be heard against it by themselves or their counsel, was read, after which counsel were called in, when Mr. Law and Mr. Christian appeared in support of the petition, and Mr. Graham and Mr. Dundas in behalf of the bill. Mr. Law spoke against the bill: the chief of his arguments went to establish the facts that the bargain made with the late duke of Athol had not been precipitated; that the legislature had plainly manifested to the duke's family its intention, at one time or other, to re-invest the sovereignty in the Crown, so long ago as the 12th of

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George 1st, when an act had passed, clearly referring to that purport, that under different administrations (those of sir Robert Walpole, Mr. Pelham, and the duke of Newcastle) the matter was known to have been in contemplation; that when the bargain was settled, it had been nine months in agitation; that the duke of Athol named the sum himself, that he never stated any claims of the same kind with those made in 1780 and 1781 by the present duke, and that 70,000*l.*, and a pension of 2000*l.* for life, settled on the duke and his duchess, was an ample compensation. — Three witnesses were called and examined. Mr. Christian then observed upon the evidence. Mr. Graham was next heard in reply. He examined the allegations one after another, and contended that they were irrelevant and vague. He affirmed that neither the petition itself, nor the evidence adduced, attached, in the smallest degree, upon the bill then before the House; but if they referred to any thing, they referred to some other proceeding not before the House, which the petitioners affected to intimate would follow at another time. This was, he said, so clear, that he might safely rest his noble client's cause on that ground; but he would not let the observations of his learned friends pass unanswered. He then went through all their leading arguments, combating them, one by one, and contending that they either did not apply, or were insufficient. In the course of his speech, Mr. Graham stated the grounds of the duke of Athol's present application to parliament, and endeavoured to justify the duke's conduct, and prove that he had an undoubted claim upon the candour, generosity, and equity of the House. Mr. Dundas made a few observations on the same side of the question. The bill was then read a second time, after which it was moved, "that it be committed."

Mr. *Curwen* said, that the bill had been brought into the House without the least notification to the House of Keys, of the duke of Athol's having any intention to introduce such a bill, in direct violation of an agreement made by the duke with the House of Keys, in 1787, when the duke was in the island, and when he assured them, that no bill should be introduced relative to the island or the interests of its inhabitants, without their being fully apprized of it. The allegations stated at the bar in behalf of the noble duke, were not founded, as he could prove from authentic documents. Mr. Curwen read from papers in his hand, an account of the several duties paid on the different articles of wine, tobacco, spirits, &c. imported into the Isle of Man; from whence he made it appear, that if the same duties were paid at this time on 10,000*l.* worth of goods imported into the Isle of Man (which he stated to be a larger amount than really were imported), as had been paid when the duke of Athol sold his royalties to government, the duke's income therefrom would not amount to more than 950*l.* a year. He contended that the claims now set up by the noble duke were unheard of till 1780 and 1781: that the noble duke's father, who made the bargain with government in 1765, never urged any such claims in his lifetime, and that thence it was fair to infer that he was perfectly satisfied. As a proof that the late duke had not thought the herring custom a manerial right, or affected to claim it, Mr. Curwen produced a memorial from the late duke to the lords of the treasury in 1774, in which not the least mention was made of the herring custom, but only the salmon fishery was alluded to. If there really existed any claims on the part of the noble family, why could they not be stated at once? He wished that the duke of Athol should not wait a single moment for justice, if he stood in need of justice from that House; but, in that case, why could not the duke make out his claims now, and not proceed in a manner which appeared liable to suspicion? But, he believed, there were no such claims existing; and one reason why he thought so was, because there was another party living from whom that House had not heard any thing, and that was the duchess dowager of Athol, who would have a right to complain if the House gave any greater compensation to the duke, and to come and say to them, "You have given to another what belongs to me." He had good reason to think, that the late duke was perfectly satisfied with the bargain as originally made. He declared it to be his opinion, that 70,000*l.* and a pension of 2,000*l.* a year on the lives of the late duke and his wife, was an ample compensation for what they sold. He accounted for the insufficient manner in which the House of Keys had supported the allegations of their petitions at the bar that day, by imputing it to their not

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having had timely notice of the bill to prepare themselves properly. If the noble duke felt any reason to complain of any of his rights being invaded, why could not he resort to the laws of the land for redress, without coming to that House to obtain it. Mr. Curwen added, that the population and prosperity of the Isle of Man had increased considerably since the sovereignty of the island had been vested in the Crown; that he himself held baronies independent of the duke of Athol, that his property and income from the island were both improved, and that he should have a good ground of complaint, and so would the holders of other baronies there, if the duke's bargain were undone again.

General *Murray* assured the hon. gentleman that he had mistated what had passed in the island between the House of Keys and the duke of Athol in 1787. The only agreement then made on the part of the duke was, that no bill immediately affecting the interests of the inhabitants of the Isle of Man should be introduced to parliament, without apprizing them previously that such a bill was intended to be brought in. The present bill was merely a bill to appoint commissioners to inquire what the duke of Athol's rights were at the time when the bargain had been made with his father, and therefore it could not be said to be a bill immediately affecting the interests of the inhabitants of the Isle of Man. The hon. gentleman had declared himself an advocate for the bill, when it was first moved for: and, notwithstanding all that he had just thought proper to say against it, he actually had had several interviews with the duke of Athol upon the subject, and declared himself, heart and soul, for the bill.

Mr. *Curwen*, in explanation, read a copy of the minute of what passed between the duke of Athol and the Speaker, and two other members of the house of Keys in 1787, in order to show that he had not misrepresented that fact. He admitted that he was originally a friend to the bill, but he did not, at that time, know the nature of the bill, nor understand what was intended.

Mr. *Pitt* said, that before parliament at any time agreed to a revision of a bargain concluded between the public and an individual, it was incumbent on the individual to make out a case sufficiently strong to induce the House to consent to revise its bargain; for unless there were solid proofs that there was a manifest injustice in the bargain desired to be revised, parliament ought not to agree to it. In the present instance, he thought that solid grounds had been alleged and proved by the noble duke sufficient to induce the House to consent to the bill, and therefore he should give it his support; he wished, however, to be clearly understood, that in supporting it, he by no means committed himself as to any subsequent proceeding that might be proposed as the result of the inquiry. He then stated the different amounts of the income which was alleged on the part of the duke of Athol to have been abandoned, and which the hon. gentleman who spoke last had given. They had heard from the bar, by the learned counsel employed for the duke, that he had given up nearly 6000*l.*, a year, and the hon. gentleman who opposed the bill, had stated the whole amount at no more than 950*l.* If the noble duke had really given up 6,000 a year to the public, 70,000 was by no means an adequate compensation, unless it was to be supposed that the right hon. gentleman, who had been minister in 1765, and made the bargain, considered the greatest part of the 6,000*l.* a year as arising from fraud and illicit traffic. In any view of the subject, in was an argument for inquiry, and not against it.

Mr. *M. A. Taylor* reprobated the bill upon the supposition of its tending to open a bargain made 25 years ago, and declared that no agreement between individual and individual, which had subsisted for so long a period, would be allowed to be opened by any court of equity in the kingdom. He went over the grounds of the case as it had been argued at the bar by the counsel against the bill, and observed, that the duke of Athol's father, who best knew what he sold to the Crown had never complained that the bargain was inadequate. The sum of 70,000*l.* had not been named by government, but by the duke of Athol himself, as appeared from the printed letters; and therefore it was fair to consider it as what the duke thought an adequate compensation. With regard to the sovereignty, he confessed he was one of those who would not have sold it for any sum whatever. But that was out of the question: it was necessary that the public should possess it, and that the crown and sceptre of the Isle of Man should be re-invested in the

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person of the sovereign of Great Britain.

Sir *James Johnstone* said, that the House of Commons ought to be considered as the first court of inquiry in the kingdom, and that there was no limitation for parliamentary revisions. If an individual had suffered injustice at the hands of the public at any time, let it be 25 years ago, or ever so much longer, that House was bound to set the matter right, and to do the individual justice. At the same time he wished not to have any injury done to the rights of the inhabitants of the Isle of Man. The person who injured them ought to be plunged in hell. There was a circumstance in the case of the duke of Athol which ought to be taken notice of, and that was, the duke's grandfather had been in the rebellion; the late duke was aware of that; and the House must be sensible that it put the duke under great difficulty, and gave government an advantage over him in making the bargain of 1765. The duke could not insist upon such terms as a person differently circumstanced could have demanded.

Mr. Alderman *Sawbridge* observed, that he should contend, even whilst he admitted that the House of Commons was a court of inquiry, that it ought to be recollected, that they acted in another capacity; that they were the trustees of the public, and that all the money which they voted was taken from the purse of the people. If the commission were to be an impartial one, and to act equally for the duke of Athol on the one hand, and for the inhabitants of the Isle of Man and the public on the other, he should have no objection to vote for the bill; because, if the bargain were set loose, it ought to be set equally loose with respect to all the parties; and the commissioners should inquire as well whether the public had not paid the duke too much as too little. If, upon investigation, it should appear that 70,000*l*., and a pension of 2,000*l*., a year, for 25 years, was a greater compensation than ought to have been given for what the late duke surrendered to the Crown in 1765 so much as was more than the value, ought to be paid back to the public by the duke's family.

Mr. *Harrison* asked, what security the public had, that, if upon the inquiry, it should turn out, that they had paid the late duke too large a compensation the excess would be refunded to them? Would the duke be at the expense of the commission, if it should ultimately appear that no injury had been done him and his family, in making the bargain of 1765? He could not agree, that a solid ground ought not to be made out by an individual, before that House consented to a revision of any bargain made between the public and that individual.

Mr. *Fox* having premised that two of his honourable friends had argued, that if upon inquiry it should turn out that too much had been paid the duke of Athol's family, it ought to be refunded to the public, added that so far from entertaining this opinion, he was convinced it would be an enormous act of injustice to resume from an individual any part of what the public had paid him, on a bargain, let it turn out that they had paid him lavishly and inadequately to ever so great an excess, and that it made no sort of difference whether the compensation given was 70,000*l*., and 2,000*l*., a year, or, 1,000*l*., and 10*l*., a year. In no case could he see that money ought to be taken back from the duke of Athol; but he could, in several cases, see that more might be given to the duke of Athol. He added, that on almost every occasion of a bargain between the public and an individual, unpopular as such a declaration might be, he was willing to take the part of the individual against the public, and his reason was, that the public had, in all cases, a manifest advantage over an individual, being considerably stronger. With respect to parliamentary revisions, there certainly was no limitation of time; but this he considered ought to obtain as a rule for that House to adhere to: whenever an individual who had made a bargain with the public, came to ask a revision of that bargain, he was bound not merely to come and state an allegation that the bargain was hard and unfair with regard to him, but to prove that it was so in some respect or other. In the present case, the House had heard a variety of allegations that the duke of Athol's family had been injured, but they had no proof whatever before them, which could warrant their proceeding to inquire. As to the case of the Derwentwater family, he never could hear that matter alluded to without stating that the case of that noble family was hard indeed; much harder than that of the bargain made with the duke of Athol.

Sir *John Miller* wished the House joy

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of what they were going to do. They would, he said, have plenty of business upon their hands, if they proceeded to revise every bargain that had been made by the public with individuals for 26 years past, if those individuals thought themselves injured. He had been applied to, again and again, by persons who had made ordnance and victualling contracts by many loyalists who thought their compensations inadequate, by persons who had been obliged to sell landed property to the commissioners of the navy or the board of ordnance, for the improvements of the dock-yards or the scites of fortifications, under acts of the legislature,—and by various other descriptions of persons; stating, that they had been dealt with unfairly, and, that undue advantages had been taken of them; but he had constantly rejected all such complaints, being aware that the House could not attend to them without opening a door to endless revisions, and to partial, wasteful, and unjust remunerations.

Mr. *Henniker* remarked that, in the reign of James 1st, a royal grant of the sovereignty of the Isle of Man was made in favour of the ancestors of the present duke of Athol, and that the terms of the grant were an express settlement of the island on the descendants of that noble family: the act of 1765 consequently violated the act of James 1st, and the public purchased of the then duke of Athol what, as he held only a life interest in the sovereignty of the Island, he had no right to sell.

Mr. *M. Montagu* considered the present bill as a delegation of the power of parliament and feared that they were going to commit that to other hands, which it was their duty to perform themselves. Painful therefore as it was to him, to differ from his right hon. friend (Mr. Pitt) he must, on the ground he had stated, object to the present bill.

Sir *Joseph Mawbey*, having acknowledged that when the bill was first introduced, he had opposed it, because no explanation was given of its object, desired to have it understood that he had not pledged himself to oppose it any farther. He had listened, with great attention, to the counsel and witnesses, and he thought it was clearly proved that the bargain had been compulsory, and that the duke of Athol had been obliged to sell, in consequence of the mischievous bill that was passed in 1765, which authorized cruisers to enter the ports of the Isle of Man, and was a direct violation of the sovereignty of that island.

Mr. Secretary *Grenville* contended, that the act of 1765 was no violation of the sovereignty of the Isle of Man, but an act necessarily passed for the better security of the revenue, which the legislature of this country was fully competent to pass. He should vote for the present bill, not because it was a delegation of the powers of parliament, but because it would be much more convenient to inquire into the rights which the late duke had possessed previous to his bargain with the public, by means of a commission for that special purpose, than to do it in that House; but the House reserved to itself its powers by so doing, as it would be for them, when the report of the committee was made, to act as they should then think proper.

Mr. *Curwen* stated, that government had lost more than they had gained by the purchase; there had been a constant deficiency between the revenues and the expenditure, amounting to 18,000*l.*

Mr. *Dundas* said, he was surprised that the hon. gentleman should rest any argument on the amount of the deficiency. If government, for purposes of its own, chose to keep up a large and expensive establishment in the Isle of Man, and thereby created a deficiency, was that any proof that the duke of Athol did not surrender an income of near 6,000*l.* a year, when he parted with his sovereignty of the island? The conduct pursued respecting the sovereignty of that island since it had been re-invested in the Crown, was not calculated to promote the good of the Isle of Man, but to protect and secure the revenue of Great Britain; and with that view it was that large and expensive establishments were maintained. The hon. gentleman had stated, that exclusive of the 70,000*l.*, a pension of 2000*l.* had been enjoyed for twenty-five years, amounting to 50,000*l.* more. That any part of the bargain should be made up by a pension for life, had ever struck him as one of the hardships which the present duke had to plead. The sovereignty of the Isle of Man, let it be remembered, was a noble property, clearly descendible and unalienable; it would, therefore have become the property of the present duke of Athol, if it had not been sold by his father to government. Let any man look at the situation of the present duke

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as he had at that time stood. The present duke was a minor, and could not defend his own hereditary right. Was it usual in the purchase of hereditary and unalienable property to have no respect to the rights of minors? on the contrary, did not every court of equity constantly protect such rights? There was not a man in that House, he was persuaded, who would stand up and tell him, that the present duke had not reason to complain that a part of the purchase of the hereditary property had been paid for by a pension in which he had no personal interest whatever. Again let them look at the different situation in which the duke stood in respect to his manerial rights now, and when the sovereignty of the Isle of Man was in the hands of the Athol family. The duke, it was to be remembered, was formerly the head of the legislature of the Island. That legislature consisted of the lords of the island, the council, and the House of Keys. The members of the House of Keys were elected, whenever there was a vacancy, by two persons being presented to the lord, who chose one; it was fair to suppose, therefore, that he had some degree of influence over a House of Keys so constituted. Every magistrate in the island was of his appointing, and consequently all his rights, of every description, could be effectually guarded and protected. Was the case the same now? Undoubtedly it was directly the reverse. The duke had no means of protecting his rights, and those rights were, in various instances, disputed. All he asked, therefore, was a bill of inquiry. Let the commissioners be who they would, so that they were men of judgment and ability, the duke would be perfectly satisfied.

The House divided on the motion, that the bill be committed: Yeas, 63; Noes, 30.

Equalization of Weights and Measures.] April 13. Sir *John Riggs Miller* rose. He said he thought it his duty to acquaint the House, that since their late adjournment he had been honoured by a very flattering private letter from an eminent learned, and very distinguished prelate of a neighbouring nation, who had more than once presided with the most marked approbation in the national assembly of France, approving his past, and encouraging his future endeavours to obtain an Equalization of Weights and Measures; and that letter was accompanied by a printed proposition, which had been addressed to the national assembly upon that subject by the same prelate (the Bishop of Autun*). He said the British nation should not be deprived of that great man's thoughts and expectations of success in the projected regulation, of the means which he proposes to be employed, and the assistance which he hopes to receive from the mutual co-operation of the British and French legislatures in the same investigations. Sir John said, it was very flattering to him that the public must hereafter perceive how much there was of coincidence and affinity between the learned prelate's ideas and his own upon this intricate subject, without any prior communication whatsoever between them. The bishop himself, indeed, had very liberally acknowledged in his private letter, that he took the hint of making his proposition to the national assembly of France from what had been lately submitted to the British parliament upon the same subject. The closing paragraph of that great man's private letter, so expressive of his patriotic feelings, and of his ardent wishes to see peace, harmony, and good will, established between two nations so long and so unhappily in rivalship with each other, to their own misfortune, as well as to that of a large portion of mankind, does his heart and his head too much honour to be withheld from the immediate notice of the House: and as it will not easily admit of an adequate translation, there needs no apology for giving it in his own words: "Trop long tems les deux nations se sont divisées par de vaines pretensions ou de coupables interêts; il est tems, que deux peuples libres associent leurs efforts et leurs travaux pour une recherche utile au genre humain." Sir John said, he should not avail himself of any new lights afforded by the bishop of Autun's proposition having for some time prior to his being honoured by that prelate's communication, arranged his own ideas upon the subject, which he should now submit to the House, and hereafter to the public, that the cause in which they were mutually engaged might have every possible consideration, and that the suggestions of the feeble might be discussed at the same time with the

* M. Talleyrand Perigord, Bishop of Autun, now Prince Talleyrand (A. D. 1816.)

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opinions of the strong, public utility being, he was satisfied, the ultimate end and object of both their endeavours and expectations.

Sir John then proceeded to state, that having upon a former occasion asserted, and, as he believed, fully demonstrated to the House, under the sanction and authority of the very accurate reports made to parliament by its committees in 1759, that "the legal standards of this country were at universal variance with each other;" and that from thence arose a compleat and palpable impossibility of the existence of any degree of order or conformity in the weights and measures now in use, so long as that variety in our standards should be suffered to exist. He should now state generally to the House, that the order of parliament of the 5th of February, to the sheriffs and clerks of the market of the different counties of England, for a return of the weights and measures now in use in the markets of their respective districts, had been in a considerable degree, complied with; and that much valuable information had been communicated, and continued to be received, as well through that channel as through the liberality of individuals, and of communities conveying their approbation of the attempted reform, and suggesting their ideas for its promotion. He said he had flattered himself by this time to have been able to have submitted fully to the House the substance of the information that had been received—the lights which that information had afforded, the objects to which it was applicable, and the mode that best suited its application. As under his motion of the 2d of April, such returns as had been made to that day, by the different sheriffs, clerks of markets, and all other municipal officers and magistrates, were already before the House: So he should move this day, that the reports and returns which had come in during the recess of parliament should be referred to the same committee, in order to their taking the whole of them into consideration, and reporting their opinion upon the present state of our weights and measures, and upon the necessity and means of their future equalization.

Sir John said, the more he had considered the subject, the more extensive and entangled he found it to be, and he might say of his labour, that *crescit eundo*; yet still he was not discouraged, nor did he see room for discouragement; the object was a great one, and it deserved to be struggled with. He wished to clear the ground before him as he advanced, trusting, as he did, that the statement of that day would prove no inconsiderable progress towards his final destination. The universal inequality in the legal standards, and the almost universal inequality in the weights and measures of this country being fairly assumed, inasmuch as the former had already, and the latter could now be fully demonstrated—he meant at this time to follow up the former distribution of his argument, not finding, upon the closest investigation of the subject, that it would admit of any improvement which it was within his power to bestow upon it. The third head or object which he had on a former occasion promised to bring under the view of the House was,—"The mischievous influence of the inequality in our weights and measures, upon the morals, the commerce, and the comforts of individuals, as well as of the community at large." This, he said, it was true, was nearly going about to prove a self-evident proposition; yet his promise to the House and his duty to the public, rendered it incumbent upon him to state, the most acknowledged and prominent mischiefs that resulted from it. And for this purpose he should divide the consideration of this object into three parts, examining separately its philosophical influence upon mankind. In respect to the former of these, its moral influence—does it not frequently cause an honest man to injure persons with whom he has dealings unintentionally, while it tempts and enables a dishonest man to overreach and to defraud his neighbour? Does it not beget diffidence, perplex and vitiate contracts, and render the engagements and the property of the merchant insecure and uncertain, besides being a frequent source to him of expense and litigation? Judges and juries are not always disposed, nor are judges and juries always qualified, to decide upon mathematical questions; indeed, their decisions must almost necessarily be perplexed and embarrassed, and it must be matter of much hazard whether they injure or redress either of the parties resorting to them for justice, from the variety and inequality of our legal standards. With respect to its influence on commerce, did it not interrupt that cordiality, confidence, and good faith, which should always sub-

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sist between the corn merchant and the farmer; between the manufacturer and his employer; between the inhabitants of towns who purchase, and of the country who sell commodities? Does it not check that spirit of enterprise so useful in commercial nations, suggesting caution to the merchant in his purchase of commodities by provincial weights or measures, which he does not understand, and which, from their variety, may prove less than he has presumed them to be, and thereby subject him to deception, accompanied, perhaps, by litigation. The proportion of one commercial weight or measure, either to the legal standards, or to other provincial weights or measures, does not for the most part admit of a ready calculation. If the difference were only in the number of the measures, that disagreement could be easily reduced to the standards. But the dimensions of the provincial measures are different in many places, not only from the national standards, but even from each other; a difference frequently overlooked, not easy to be ascertained when suspected, and, in some cases, not even known to exist in the very county where such measure is used. Hence those counties whose measures are greater than they are known to be, must, of necessity, sustain loss when they sell or export grain by such measures; and strangers, who dispose of goods at markets where the measures are larger than they supposed them to be, must be injured by their ignorance of that circumstance. The merchant, who purchases commodities in distant parts of the kingdom, may well be ignorant, that by the largeness of his own provincial measure he could make as good, and perhaps often a better bargain nearer home, and thereby encourage the trade of his neighbour with equal or more advantage to himself than by distant engagements, and the expense incurred by the transport of goods from one county to another, is always unproductive labour to society. Those tables which are published by literary men who know not the dimensions, but only the numbers of the measures which compose provincial standards, are mischievous to society; nor can any correct tables be made until a public examination of all provincial measures shall have taken place.

Let us now examine the effects of this inequality in a philosophical light. And here, Sir, we shall find that science is deeply injured by the diversity of measures used in different nations. It is extremely difficult to reduce the measures of one nation with any degree of certainty or accuracy, to those of another; nay, even of that nation which shall be nearest to it in situation, and most connected with it in commercial intercourse, the different measures of a degree are, for example (in the same latitudes), owing in a great measure to this cause; and even in the same nation our measurements would agree better were we confined to our standard. Now, Sir, let no man assume, that the inequalities complained of have but a slight influence on our commercial transactions, and that a man can be only for once materially injured by the greatness of those provincial measures of which he is ignorant, as he may afterwards reduce them to such as he is acquainted with. This requires a skill in calculation beyond what we are aware of, and beyond what the inferior orders of men commonly possess; and it is a most important duty of government to render every such complex operation perfectly unnecessary to all its subjects. The farmer, the merchant, the manufacturer, who should resist the proposed regulation, would only furnish an additional proof of its necessity. Shall we support a commerce that subsists by taking advantage of ignorance? Our reciprocal wants are the great principle of all commerce; good faith, and confidence, its only substantial foundations. Every merchant and every manufacturer should have no hesitation to sell his commodities, and to employ his money in every market of the empire, relying on the protection of the laws against all dishonest and artful actions. As the obtaining one general standard, which shall be both perfect and permanent, would open the most gratifying prospect to the view of the moralist, the merchant, the statesman, and the philosopher, inasmuch as it would completely overcome the most obstinate and intractable difficulty that has at all times opposed a general equalization of weights and measures, I shall next submit to the House the best lights which I have attained upon that subject, in order to excite further examination, and to promote a general intercourse and communication, thereby endeavouring to concentrate the exertions of the learned and the liberal upon an object of equal moment and intricacy. With this view, having already stated the

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indispensable necessity for one general standard, I shall next describe the qualities that appear to me to be essential, and the qualities that appear to be only eligible and desirable in such a standard; submitting finally to the House those objects in nature which are presumed to be most likely and the best adapted to supply us with a standard.

The qualities of a standard are of two kinds, viz. those which are essential, and those which are only eligible. The essential qualities which every standard should possess are, that it should be taken from nature, or connected with something in nature, and not from any works of art, which necessarily decay; nor from any thing that is merely arbitrary, and which has no other right to be a standard, than that it is kept in a house which is called the Exchequer or Guildhall, and which has certain marks upon it, and a certain name given to it. That this standard be the same at all times and in all places, or so nearly the same at every place as to afford no temptation or encouragement to buy with one weight or measure and to sell with another: that it be capable of being rectified or regenerated by an observation taken from nature at any distance of time and of place. Now, Sir, is this the case with our present standards? No, but exactly the contrary. Our present standards are altogether arbitrary; they have no connexion with any thing that is permanent or uniformly of the same dimensions in nature. 'Tis true they were originally taken from nature; but they were taken from what was fluctuating and various, and not from what is uniform and permanent in nature. A barley corn, and an ear of wheat, from which all weights and measures now used in England were originally raised, are of different dimensions under a different culture, when moist and when dry, in different soils, seasons, and exposures. Our present standards are therefore not connected with nature, nor with any thing that is fixed or permanent, but are altogether arbitrary, and cannot be rectified but by a new standard.

The qualities which are not essential, but only eligible, or more or less to be desired in a standard, are principally that the standard be of sufficiently large dimensions, as a very small error is considerable on a small scale or standard, while a much greater error on a large scale is inconsiderable. It is desirable that its denominations be in tens, to give it the advantage of whole numbers, or decimal fractions. It is eligible, that it be connected with two things in nature, or be capable of being rectified by two observations from nature, that one of these may check and prove the other; and that where a man cannot make the one, he may be able to take the other. It is eligible that the standard correspond in round numbers with some of the weights and measures in present use, either exactly or very nearly. It is eligible that the standard correspond within $\frac{1}{400}$ or $\frac{1}{500}$, with weight, and within $\frac{1}{1200}$ or $\frac{1}{1300}$ on lineal measures, as these last must be raised to the cube for solid measures, or measures of capacity. It is also eligible in some degree that it correspond with the weights and measures of the neighbouring nations. It is desirable that, where it does not correspond with, it may be a medium between the weight or measures of other nations. And it is to a certain degree eligible, that the standard, and its divisions, and denomination, be such as the neighbouring nations may be inclined to adopt.

The following standards are all taken from nature, and have all the essential qualities of a standard.

1st Standard taken from a drop of water, or spirit of wine of a certain degree of heat. Supposing that every drop were of equal magnitude, as distilled water or spirit of wine is of the same specific gravity in every part of the earth, if weighed in the same degree of heat, a certain number of drops of distilled water, or of alcohol spirits, might be fixed on for a standard ton weight; and the side of a cubic vessel, which contained this ton, might be established as the standard of lineal measure. To render the drops exactly equal, they should be made to drop in the same manner; and a number of persons should be employed at the same time, and in the same room, while one of them kept the temperature uniform, another should count the seconds or half seconds for the fall of each drop. If it were possible in this, or in any other manner, to procure drops of equal dimensions, the peculiar advantage of this standard would be, that being taken from cubic to lineal measures, the error, if any, would be broken down in making measures of length; while any error in a standard that is raised from a lineal measure, is greatly increased, before it is

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raised to the cube for solid measures. This is perhaps the most unexceptionable of small standards; but it is of too small dimensions, and if there were any error in the dimensions of a medium drop, that error would be increased to a great degree on a ton.

2nd Standard, taken from the admeasurement of the space, through which bodies fall in a second of time. This is an excellent idea in theory, but cannot, perhaps, be reduced to practice with that precision which is necessary in a matter of this kind.

3rd Standard, taken from a degree of a great circle of the earth, would be a standard of very large dimensions; it has been proposed to divide this into 60,000 parts, which multiplied by six, will give 360,000 feet for a degree of latitude; one of these divided into twelve parts, may be named a foot of twelve inches, and this last to be made a standard for dividing a cylindrical foot of water into forty-eight parts, each of which may be named a pound. Here we should have a foot for an invariable and permanent measure, taken from the axe of the world, and from thence a rule for measuring surface, and gravity in solids and fluids. The astronomers of Vienna have fixed one length of a degree of latitude at 360,000 Austrian feet, which shows that their foot answers to their observations, in dividing the meridian in aliquot parts to infinity, and by that they could have had proportions in weight analogous to their measures, had they found a standard for their fluids. It is certainly a matter of much difficulty to take this measure with the necessary accuracy. It is not easy to make any observations on the heavenly bodies so exactly as is here requisite. And it is also difficult to measure so large a portion of the earth, as a degree of latitude with sufficient truth and precision; but though both of these could be done, owing to the figure of the earth (which is neither a sphere nor an elipsoid, but a kind of spheroid less prominent in the middle latitudes than the elipsoid), the measure of a degree of a great circle is different in different latitudes. And from the attraction of neighbouring mountains, the defect of attraction in neighbouring oceans, and owing to the want of a universal standard measure, the mathematicians of different nations have found the measure of a degree of a great circle, different in the same latitude. M. de la Caille, and some others of the French academicians and philosophers have, however, come so near to truth in this measure, that perhaps a combination of the first talents of this nation with those of France, possessed of time, means, encouragement, and especially of mathematical instruments of the greatest accuracy and excellence, may go nearer to supply us with a standard than we are at first aware of.

4th Standard, taken from the length of a pendulum. This appears to me to be the most proper for a standard. It is the simplest, the most easily obtained, and the most accurate. Mr. Whitehurst's improvement on Mr. Hatton's idea, in taking the interval between two pendulums, deserves the highest commendation from every lover of science. Yet the interval which he has found, viz. 39.892 inches, is not proper for a standard, as it possesses none of the eligible qualities mentioned in the foregoing discussion of standards; nor is it divided according to the rules before recommended. Many lengths of pendulums might be proposed, as coinciding nearly with some of our weights or measures. But the pendulum which vibrates seconds at London, is the most proper standard for Great Britain, and a medium for all Europe. Mr. Huygen's length of the pendulum, by sir John Moore's reduction, now known to be erroneous, is 39,2. inches. Mr. Emerson's, by which he computes his table of the length of the pendulum in different latitudes, 39.131. Dr. Desagulier's length of the London pendulum, by which Mr. Ferguson computes his tables, is 39.128. Mr. Graham's length, found by a nice experiment in 1772, made with a standard English foot, 39.126. Mr. Whitehurst's, deduced from the interval between two pendulums, according to himself, is 39,1196. Ditto corrected by the reviewers, who make a deduction for the small rod of his pendulum, 39.1167. Laying aside the first, as knowing it to be erroneous, Mr. Graham's is nearly the medium between the other lengths, and it is on many accounts the safest, and until a national experiment shall be made, the best. Hence I should propose, "the London pendulum of 39.126 inches as the standard of lineal measure, the square of this length as the standard of superficial measure, the cube of it as the standard of solid measures or measures of capacity; and the cube of it filled with rain water of a cer-

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tain temperature, as a standard tun, from which all other weights are to be derived." This proposed standard appears to possess the qualities, both essential and eligible heretofore wished for in a standard.

Having now submitted to this House, what I conceive to be the best suggestions, which my own inquiries, or the intimations of others have afforded me, upon the very important subject of a standard, I call upon the friends of justice, of commerce, and of philosophy, to discuss it as an object not unworthy of their most serious consideration, either by improving the hints which are now proposed, or by the substitution of what may appear to them more practicable and more effectual. For without a permanent standard, our endeavours can be at best but imperfect: with a permanent standard, what may we not hope for and expect? The fourth object of my original plan, viz. "the proposing some immediate corrections of the abuses that prevail through the inequality of our weights and measures," &c. I shall defer troubling the House with to a future opportunity, when I shall also submit to them the objects which the legislature is bound either to prevent or to promote, by any act or regulation, for the equalizing our weights and measures accompanied by whatever else, shall in the mean time, suggest itself, in the course of inquiry, that may tend to promote the proposed equalization.—Sir John then moved, "That the reports, which, upon the 26th day of May 1758, and the 11th day of April 1759, were made from the committees appointed to inquire into the original standards of weights and measures in this kingdom, be referred to the committee who are appointed to consider the several returns which have been, or shall be, made to the orders of this House, of the 5th day of February last, respecting the different weights and measures now in use in the several cities and market towns throughout England and Wales, and the town of Berwick upon Tweed."

The motion was agreed to.

Debate on Mr. Sheridan's Motion against subjecting Tobacco to the Survey of the Excise.] April 16. Mr. Sheridan moved the order of the day for the House to resolve itself into a committee on the several petitions, praying for a repeal of the Excise Tobacco Bill. Mr. M. A. Taylor having taken the chair of the committee,

Mr. *Sheridan* said, that in despite of the little consideration to which several hon. members might think the subject of the ensuing debate intitled, he felt himself thoroughly convinced that the great importance of its nature merited the most serious investigation of the committee, and, therefore, upon such a ground, he should take the liberty to put in his earnest claim to the favour of an unprejudiced and patient hearing. The matter, indeed, would scarcely admit of being enlivened or dignified by the manner of discussion; yet, it was deeply interesting; for, it involved within it points which were essential to the existence of the constitution itself. He was, however, aware, that before he could succeed in making some members of the committee view the question in the same light in which it appeared to him, there were some prejudices which it would be necessary for him to endeavour to remove. Of late he had observed that, whenever revenue was mentioned in parliament, it seemed to be understood that every other consideration was to give way to it; that even constitutional principles were to be subordinate to an increase of revenue. This had grown into a kind of prejudice; and a man would run the hazard of being thought an enemy to the credit of the nation, who should venture to oppose a plan, however injurious it might prove to the rights of the subject, if it purported to hold out a prospect of an increase of revenue. Yet, still should he presume to oppose that prejudice, at the same time that he professed himself to be among the foremost of those who were anxious to uphold and preserve the public credit. He was aware that the doctrine on which this prejudice was founded, had powerful advocates, and was sanctioned by great authorities. Mr. Hastings, among others, had declared himself the champion of it, and lent it the weight and credit of his name; for, he had affirmed it to be his opinion, that "revenue was the end of all government." But though this position was advanced by so great a statesman, he would not hesitate to say, that it could not be maintained for a moment by any man who had the smallest regard for the happiness of his fellow creatures. The true end of government was to keep mankind together by securing their happiness, protecting their rights, and insuring to them the possession and enjoyment of liberty and property. Revenue might be

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used as part of the means for effecting these desirable purposes, but it would be a perversion of common sense to call it the end of government. Those persons who could mistake revenue for the end of government, would and must consider a national debt as absolutely necessary in every state; and would therefore take care to establish what he must always consider as dangerous to liberty; for a public debt of any magnitude produced of course taxes; the collection of taxes required revenue officers; the appointment of these being in the executive government, would necessarily extend the influence of the Crown, and that extension must be at the expense of the rights of the people. He was willing to go great lengths to support the public credit, by increasing the revenue; but he thought that there were some rights that were above all price, and for the loss of which no increase of revenue could be a compensation. There was another prejudice, the fatal influence of which had been experienced more than once in the defeat of laudable endeavours made by friends to their country to oppose what they conceived to be injurious to the people's rights. And this was, that measures proposed by a minister were opposed of course by his political adversaries in parliament, not because the measures were wrong, but because they were his. This prejudice was founded upon an opinion as unjust as it was injurious, and could not, for a moment, stand the ordeal of inquiry. If gentlemen would look back, and review the proceedings of that opposition of which it was his boast to be a member, they would find, that the persons of whom it was composed, had, upon all occasions, manifested a strong desire to concur with the minister in supporting the public credit; and that they never attempted to catch at popularity, by contending that taxation was unnecessary. On the contrary, they had always agreed with him, that in the actual situation of affairs, the burthens of the people could not be lightened. Whenever, then, they had differed from him, and condemned any of his measures, the difference was not about the end, but the means; and the issue of their opposition, on various occasions, proved that it was founded on reason, and not in hostility to the minister. It was to opposition that the nation was indebted for the defeat of the plan, by which the minister would have placed an excise officer at the mouth of every coal pit in the kingdom; for that must have been the case, if he had not been obliged by opposition to give up the duty which he had proposed to lay upon coals. When one of the most valuable manufactures in the kingdom, cotton, was endangered by the injudicious excise duty laid upon fustians and other articles, opposition stepped forward, and by procuring the repeal of that duty, preserved from ruin one of the greatest sources of trade and wealth to the nation. The shop tax was also opposed; and, after repeated struggles, the minister gave it up: in that case he must be imagined to have given way to conviction, and not to clamour; and consequently he himself, by consenting to the repeal of that tax, admitted that the opposition to it was well-founded. In these various instances, the committee would see that opposition had not been actuated by factious motives; the success which attended the stand made to those different measures, and the minister's own conduct in giving up his plans, notwithstanding the kind of parental fondness that he was known, in general, to feel for whatever proposition he had once adopted, proved, beyond contradiction, that the gentlemen in opposition had good reason on their side.

The prejudice which he was then combating, was not confined to the House of Commons, but pervaded large bodies of manufacturers, whose spirit had been broken down by the oppression of excise laws. It was the decided opinion of several of the manufacturers of the very article on which he was to say much before he should sit down, that the act was as oppressive, as absurd, and as impracticable as it had been declared to be by himself and others; and yet they did not dare to join their brethren in opposing it, lest by joining opposition, they should bring upon themselves the indignation of government, and the ill-will of the commissioners of excise. This he could prove by a letter then in his hand, written by Mr. Purvis of Hull, an eminent manufacturer in the tobacco line, to the committee of tobacconists. A passage from this letter Mr. Sheridan read; and it appeared from it that Mr. Purvis, though he had once thought so ill of the tobacco excise act that he was on the point of quitting the trade; and though at least two out of the three partners in his house had been on the point of retiring from it,

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on account of this act, yet he was of opinion that the manufacturers ought to acquiesce, "lest by throwing themselves into the arms of opposition, they should draw upon themselves the ill-will of government." Such was the mode of thinking and acting into which a free-born subject might be driven by the oppressive spirit of the excise laws. Uncommon pains had been taken, in the public prints, to defame all those who had taken any part in endeavouring to procure a repeal of the tobacco act. And no one had been more distinguished on the occasion than himself. He begged leave to apologize for speaking concerning himself. He at all times disliked egotism, and more so on the present occasion, when the attention of the committee was to be taken up with the consideration of important subjects; but still, as it was the part which he had taken in this business that had drawn upon him the ill-will of those who had traduced him, and as they had connected his personal character with the important business in which he was then engaged, he hoped that the committee would suffer him to trespass, for some few minutes, on their patience, whilst he should proceed to a few remarks upon the attacks that had been made upon him. Those who made those attacks had gone out of the common path, and instead of pursuing the old sober staple of abuse, had descended to the lowest scurrilities, and fallen without mercy not only upon his public conduct, but also on his private life. They had made charges of a singular nature, and endeavoured to rob him of the esteem and friendship of those whom he valued most in society. Fortunately, however, their charges were as void of truth, as they were fraught with malice. He had, hitherto, treated them with contemptuous silence, and would have continued in this disposition to the present day, if he had not felt some reason to think, which reason he had not heard till a few hours ago, that some of those charges were considered as founded in truth. What he more particularly alluded to were, whispers or reports of jealousies among some of his dearest friends, and of a certain opposition affirmed to have been made by a noble duke (of Portland) against some views or expectations, which he (Mr. Sheridan) was said to have entertained: concerning such whispers and reports, he could truly declare, that there was not in them one grain of truth. The opinion which they ascribed to the noble duke had never been entertained by him. He would not venture to state to the committee the opinion that the noble duke was pleased to entertain of him, lest he should be accused of vanity in publishing what he might deem highly flattering: all, therefore, that he would assert on this occasion was, that if he had it in his power to make the man, whose good opinion he should most highly prize, think flatteringly of him, he would have that man to think of him precisely as the noble duke did; and then his wish on that subject would be most amply gratified. The jealousies to which he was described as having given occasion, existed only in the brain of the traducers; they did not, they could not exist any where else [Mr. Fox exclaimed out, "Hear, hear!" in a tone of approbation]. He was, therefore, perfectly at his ease, whilst the traducers were propagating their calumnies. He defied any man to charge him with any one act that could be tortured into a violation of any engagement founded in honour and integrity. If he could be charged with any dishonourable, mean, or unmanly act, he should feel very differently indeed; his mind in that case would sting him more than the most bitter reproaches of his most calumniating enemies. As to any pretensions which might be ascribed to him to situations far beyond his natural weight in the community, he would only observe that it was the peculiar excellence of the British constitution, that a man could push forward into notice and distinction the talents or abilities, whatever they might be, with which Providence had endowed him.

Mr. Sheridan, at length returning to the system of excise, said, that he then held in his hand a book, which contained only *ten* acts of parliament for enforcing the excise; and he was bold enough to declare, that in no age, or country, had the most fell despotism pursued measures more tyrannical, more cruel, or more oppressive than those which were to be found in that book. Despotism, he admitted, had oppressed, and dealt in cruelty in all ages; but never had it assumed the robe and form of law, and built up such a system of oppression as that book exhibited. It would prove an endless task to point out the various instances which had come to his knowledge of the oppressive spirit of the excise laws. He would,

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therefore, content himself with one. An eminent distiller, of a very fair character, had occasion to dispute a judgment by which a quantity of spirits had been seized and condemned as being above proof. He maintained that they were not above proof; that Clarke's hydrometer, by which they had been proved, was faulty; and that if the spirits were tried by accurately-made hydrometers, they would be found to be such as the law required them to be, and consequently not seizable. The case went to trial, and turned out to be precisely as the distiller had stated it to be; Mr. Clarke admitted that his hydrometer was faulty, and requested that the commissioners of excise would give him leave to amend and correct it: but, instead of listening to a request so reasonable and just, they procured a clause to be inserted in a hotch-potch bill, by which it was enacted that Clarke's hydrometer should in future be the legal standard for trying the strength of spirits. This hydrometer was acknowledged by its maker to be faulty; and yet the commissioners, so far from granting him leave to amend it, applied to parliament for an act which sanctioned error, and legalized falsehood and oppression. This single instance must give the committee an idea of the spirit of the excise laws; and yet the idea would be faint, and fall infinitely short of the reality. If, in the course of a trial, it was found that a person whose goods were seized, had been able to recover them, a new clause or act was proposed to meet this particular case; so that the system of excise laws was not founded on any general principle, but on particular cases, and, in its progress, it advanced regularly from a lower to a higher degree of oppression. Thus, for instance, in the reign of Charles 2nd, when the excise laws began first to appear, great caution was used to secure the liberty of the subject from being wantonly abused. In the first instance, an excise officer could not break into a house, without an information upon oath, without a warrant from a justice of peace, and the presence and attendance of a constable; and no house was, even with all these precautions, to be entered by an exciseman in the night. But, by degrees, all these barriers erected for the protection of liberty, were beaten down; the warrant from the justice was dispensed with; so were the information upon oath, and the attendance of a constable; and at last the officer might enter in the dead of night; nay, so far had the spirit of despotism been carried, that in the present administration a clause was inserted in an act for empowering even a reputed officer of excise to enter a house by night, without warrant, or presence of a constable [Here the attorney general looked surprised, and as if doubting that such a clause could have passed]. Mr. Sheridan said it certainly had passed, after having been ineffectually opposed by himself and the worthy and respectable member for Salisbury (Mr. Hussey). It was so gross an act of despotism, however, that during the next session it was repealed. In all the cases of trial under the excise laws, the officers and the tradesmen were not what they ought to be in a free country—they did not go into court upon equal terms.

It was the boast of the English constitution, that the highest and the lowest subject in the land met in a court of justice on terms of equality; but this equality was destroyed by the excise laws. If goods were seized, the owner became obliged to prove that they had paid the duty; but the officer was not likewise reduced to the necessity of proving that they were seizable, until the owner should have established grounds that a jury might deem sufficient to warrant and call for the restoration of them. The officer could bring his action within three years, the trader within three months: and the latter was compelled to give notice in writing of the grounds on which he intended to proceed; and was restrained, at the time of trial, from bringing any fresh ground, or giving any evidence which he had not specified in the notice: and, after all, though the jury should, on finding the conduct of the officer to have been vexatious, malicious, and oppressive, give the trader five thousand pounds damages, yet, if the judge should certify that there was probable ground for the seizure, the damages thus given by a jury, might be reduced to twopence. Here it might be said, that the character of the judges would not suffer a man to suppose that any of them would favour the excise officer, at the expense of justice. He, for one, thought as highly as any man of the integrity and patriotism of the present judges; but he did not conceive it fitting that the liberty and property of the subject should ever rest upon mere confidence in the charac-

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ter of individuals; those who would have him to submit to such a predicament, would only alarm still more his jealousy, It might, perhaps, be contended, that the sting of the excise laws was taken away by the moderation with which they were executed; and the learned attorney general had said on a former occasion, that, in point of fact, not more than 7½ per cent. was levied of all the fines and penalties incurred by the traders under these laws. He admitted the moderation of the Crown lawyers; but this very moderation was a ground for alarm; for it showed that those who incurred penalties under the excise laws, held 92½ per cent. of their property at the will and pleasure of the Crown, and consequently were obliged to submit to any thing rather than offend the government of the day, by whose forbearance alone they enjoyed so considerable a portion of property, which might be exacted and taken from them, under the name of penalties and fines. Lying thus at the mercy of government, their spirit was broken down; and in point of fact they became less good citizens and subjects than they were before.

Upon this occasion, it would be expected that he should make some remarks concerning the trial by jury, particularly as it was mentioned in all the petitions then on the table. If there was any human institution which a man might be permitted to idolize, even with the enthusiasm of superstition, it was the trial by jury. But if it was to be continued upon no other principles than those of the excise laws, he should not deem it worth preserving; nay, he thought that in the end it might become dangerous to the community. Men who were accustomed to see the numerous hardships and oppressions which were always the forerunners of a trial on any of the excise laws, must, in the end, become familiarized with oppression, and lose much of the horror which it at first inspires; and finding their verdicts frequently set aside by the certificate of a judge, they must, of course, feel less anxiety about endeavouring to apportion the damages to what they conceive to have been the extent of the injury done to the trader, when, after all their pains, the judge might reduce them to twopence. If the minister wished to make the trial by jury what it was intended by the constitution, that it should be a shield against oppression, he would have him not merely grant an appeal from the decision of the commissioners, which would be attended with the bad consequences that he had just described, but reform the whole system of proceeding in excise cases, and place the trader contending with the excise officer on that footing of equality, without which justice could not be obtained. Under the present system, an option of trial by jury in the last instance, would prove but a mockery. Let the preliminary hardships under which the trader labours be removed, and then he might have an equal chance for justice with the officer, which no one could say that he enjoyed at present. Exclusive of lying, as the traders do at present, so much at the mercy of the commissioners, holding as they do 92½ per cent. of the penalties incurred under the excise acts, at the mercy of those commissioners, how often would they dare to assert their right, and endeavour to do themselves justice, when, by attempting to do so, they might expose themselves to the resentment of the board, and to consequent ruin? Mr. Purvis exhibited a striking instance how a man's spirit might be broken down under such circumstances. He, like other tobacconists, reprobated in the strongest terms, the act for excising tobacco; and yet he would not venture to join them in endeavouring to procure a repeal of it, lest he should expose himself to the vengeance of government, by resisting one of its acts, and excite their indignation by applying to any gentleman in opposition to lend his aid on the occasion. The officers of excise, without any one motive to treat with respect the liberties of the people, had some temptation to endeavour to destroy them. The legislature had deprived those officers of their elective franchise, by an act for which, it was true, he himself had voted: but where he did vote for it, he gave way to the high opinion which he entertained of those who had proposed it, rather than to the dictates of his own judgment; for he held the birth-rights of men to be too sacred a property to be taken from them without evident necessity. However, so it was, that all persons employed in the collection of the revenue, were so far disfranchised, that the legislature would not suffer them to vote for members to serve in parliament. Smarting under this disfranchisement, they might go forth in the pleasing hope, that they should have op-

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portunities of revenging the affront they had received, by harassing and oppressing others; these were the persons who were to be the public-spirited destroyers of smuggling, and the restorers of fair and honest principles of trade. He would leave it to the committee to judge how well qualified they were for such a task. How could degraded teachers, reprobated reformers, and excommunicated missionaries, introduce a new system of fair dealing? They were sent forth with brands upon their backs, and scourges in their hands to put down smuggling, and establish a system of commerce equally useful to government and to the trading interest.

As to the country gentlemen, they had of late seemed to think that questions of commerce did not regard them, that in such questions they had no interest; and that the trading part of the nation was bound to attend to them. But this was a very wrong opinion; and he could prove to them that not only they had an interest in all questions of trade, but that they had a greater interest in them, than even the merchants and traders themselves. This proposition was not new; it had been first advanced by Mr. Locke, a man whose opinion would be received as authority in the House of Commons, and in all other places whatsoever. Would the country gentlemen please to explain in what manner they thought the national debt was to be paid off? At present the land stood pledged for the payment of it; and as it did not suffice for the discharge of so immense a debt, the surface of the land, the flocks and herds that grazed upon it, the ore dug from its bowels, must stand mortgaged for ever for it, unless redeemed by that which bids defiance to space or time—the inexhaustible resource of trade, pushed on by the irresistible energy of enterprise, under the management of inviolable fidelity to engagements, and directed by the wisdom of the legislature to the most eligible objects. It was trade alone, then, that could relieve the land from the immense burthen of debt under which it groaned; and therefore, the country gentlemen were deeply interested in every question of commerce; and more so even than those by whom commerce was carried on. In general, the traders had not a permanent or hereditary interest in trade; it was their wish to get out of it as soon as they could; and therefore they might pursue such measures as would speedily enrich themselves, but leave trade not worth the pursuit of those who might come after them. Yet the case was different with the land owners; as they must wish to see the land freed from the incumbrances of public debt, and as this could be done only by trade, it was their interest to take care that no measure was pursued which could check or cramp its operations, either at present or hereafter; and consequently there was not a set of men in the nation so much bound to resist the shackles imposed on trade by the excise laws.

Mr. Sheridan observed, that it was not his intention to say much about the manner in which the act for excising tobacco was framed, though he might be tempted to animadvert severely upon it, the House being in a committee, and the speaker not being in the chair; yet, were he to say that the act was "a heap of contradictions and absurdities, thrown together by some person who could write but could not read," some gentleman might not fail to call him to order, and tell him that it was disorderly to allude to what had passed in another place, and that he must not state the highest law opinion in the kingdom on this act, because that opinion was given in a place to which the rules of the House would not suffer its members to allude. The treasury seldom gave itself much trouble about the formation of bills of revenue, but left it generally to the respective public boards to frame them. The process was much like that of the manufacture of tobacco. The bills were presented in the stalk or short cut to the boards by some of the chief members; there they were dried, and thence sent to the treasury mill to be ground and sifted: they received a little infusion in a preliminary and recommendatory speech from one of the great law officers of the Crown, and then an application was made to the House of Commons, as merely for a permit. Such was the usual process, from which who could expect a complete and perfect manufacture? Mr. Sheridan observed that, from the mass of evidence which had been given on the subject of this act he would draw two conclusions, to which he was convinced that no honest man, listening only to the voice of reason, could refuse his assent. One was, that the act, so far from being calculated to prevent smuggling, absolutely encouraged it, and pro-

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vided a secure asylum to protect its growth. The other was, that the operation of the act must necessarily end in the destruction of the fair and licit trade, and the establishment of smuggling on its ruin.

He next remarked, that it was scarcely possible for any man to point out clearly, and beyond all doubt, in what part of the kingdom the trade of a tobacconist might be carried on; for the clause respecting this in the act was enveloped in such obscurity, that a man could hardly guess at its meaning. In all other businesses, the officer was obliged to go to the manufacturer; but, under this act, the manufacturer was obliged to go to the officer; the mountain was compelled to go to Mahomet. It might be imagined that the board of excise would rest satisfied with the power of sending its officers to break into our houses at their pleasure; but that, it seems, is not enough; we must carry our houses to them, that they may kick open the doors at their leisure. They say, "Bring us that mill and stream from the valley; we cannot go so far from home to survey it;" But such language was warranted by the principle of the act, which would not suffer the manufacture to be carried on, except in cities and market towns within five miles from the coast. It was obvious that the act would totally destroy the export trade of manufactured tobacco. It limited the exportation to the island of Jersey, and left it in the power of the commissioners of excise, who should export it to Jersey; as the act provided, that none should be at liberty to export, without a license from the commissioners, who were not bound to grant it to the first who should apply for it, but might give it to any favourite or favourites whom they chose to select from among the manufactures at large. The ground of the limitation was observed; it was, that the manufacture might not be smuggled back into England from Jersey: but this was a poor preventive against smuggling, as the people of that island could provide themselves from Holland or America with any quantity for which they could find a vent. The export trade to foreign countries must be greatly injured, if not totally destroyed, by the act. In the first place, the price paid for licences was proportioned to the quantity of tobacco manufactured, and consequently, it ought to be considered as a tax which must raise the price of the article in the foreign markets. This was contrary to every sound principle of trade, which condemned all burthens laid without absolute necessity on articles of exportation. When the shop-tax was proposed, the right hon. chancellor of the exchequer respected this principle; for he exempted from it all persons keeping warehouses and carrying on an export trade. The present act militating against that wise principle of commerce, ought therefore to be repealed, as tending to injure our foreign trade. There was another way in which this act would injure, if not at last destroy, our export trade of manufactured, tobacco: and that was, that if a tobacconist was in the act of getting ready to execute an order from abroad, he must suspend his work, if the excise officer should come to take a survey; he must attend him whilst weighing the stock; and many hours, perhaps some days, being lost in this business, the vessel in which he was to ship the goods ordered by his foreign correspondent being probably obliged to put to sea in the mean time, the order is lost, and so perhaps is the customer, for ever. For, not to be subject to such disappointments, he, perhaps, will send his order to some other country; and thus, in the end might this valuable branch of trade be transferred to some other nation, and lost for ever to this.

Next, as to the encouragement which the act gave to smuggling, though its avowed object was to suppress it. Formerly, the difficulty which attended the smuggling of tobacco was, that even after it was landed and housed, it was still liable to seizure. But this difficulty was completely removed by the present act; for, the moment it got under the roof of the tobacconist, it was as sacred as if it had paid duty; the very officers of excise who had been examined at the bar, had all admitted that there might be great quantities of smuggled tobacco on the premises of the manufacturer, without their knowledge; nay, that they might see it without being able to seize it. From papers then on the table, it appeared that there were 337 wholesale dealers in manufactured tobacco, and 60,000 retail dealers. Formerly, the smugglers could deal only with the former,; but now, as every country retail dealer was a manufacturer, and could have smuggled tobacco in his house, without any danger of its being seized, the act of course in-

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creased the possible customers of the smugglers from 337 to upwards of 60,000. The obvious consequence of the hardships of the act would be, that the great manufacturers would feel themselves reduced to the necessity of quitting their trade. The obvious consequence of the increased number of customers to the smugglers, would be the ruin of the revenue, which this act was to make more productive. Among the many hardships of the manufacturers under this act, there were two of a very serious nature. One, that from the nature of the atmosphere, the manufacture might, from the moisture or dryness of the air, lose or gain more in weight, than the table laid down in the act allowed. What, then, was the manufacturer to do? He could not answer for the state of the atmosphere, and if his goods had decreased in weight through heat, or increased through moisture, without any act of his, to a degree beyond the standard established by the act, then was he liable to ruinous fines and penalties. The commissioners, before they could, in justice, levy these fines, ought to ascertain that the weather will always be in that precise state of heat or cold which the act supposed it would be. They ought to make Christmas give security, for frost; take a bond for hot weather from August; and oblige damps and fogs to take out permits. It was true that it had been observed, that where the increase or decrease, beyond the allowed table, appeared to have been really the effect of the weather, and not of any intention in the manufacturer to defraud the revenue, the commissioners ordered the goods, if seized, to be restored and the penalty remitted. But he had two strong objections to this exercise of illegal mercy by the commissioners. First, it gave them a dispensing power, which parliament had not thought proper to allow even to the king. And secondly, this dispensing power might be used to very bad purposes. When the law was harsh and severe, and the executive power indulgent, and willing to soften its rigour, the people would be led to dislike their own representatives, who could pass a rigorous law, and to fly to the Crown for relief against it. If a dispensing power could be tolerated, it must be when the benefit of it was general, and extended, without exception, to every class of subjects without distinction; as was the case when an act of parliament ordered that all vessels that were of a particular construction should be destroyed. It was soon discovered that the execution of so impolitic a measure would ruin thousands of poor fishermen on the coast, whom the legislature had not within their contemplation at the time when the act was passed, though the letter extended to them as well as the smugglers who were the objects of the act. What could prove more impolitic, than to pass any act, which, in the execution, would ruin the country? It was wrong that the executive government should be so careless in preparing bills as to propose such as it must afterwards (by what might perhaps be called a not illaudable violation of the constitution) not suffer to be executed. In the case of those fishing boats, however, the evil was not so great, because the dispensation was general, without any respect for persons. But in the case of remitting fines to manufacturers who should have incurred them, an inquisition might be set on foot into the life and political principles of each individual, and those only might feel the indulgence of the commissioners who should be found to be the friends and supporters of the subsisting administration. Were a man whose stock had increased or diminished beyond the standard table in the act to attend the commissioners, and assure them that the weather alone had occasioned the increase or decrease of the article, and that no fraud whatever had been used on the occasion, the commissioners might say to him, "Sir, you need not give yourself so much trouble to prove your innocence, we see honesty in your orange cape." But should a person of quite a different side in politics attend for the same purpose, the commissioners might say, "Sir, you are not to be believed; we see fraud in your blue and buff, and it is impossible that you should not be a smuggler." Perhaps he should be told that it was not liberal in him to suppose that the commissioners would be capable of acting in this way; but he was warranted by the authority of the law, in entertaining a constitutional jealousy of men, whom the law considered as unfit to sit in parliament, or vote at elections, on the supposition that they were not free agents, but under the influence of the Crown.

When the manufacturers were under examination at the bar, they had not let fall any expression which might intimate

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that it was their intention to quit the trade, if the act was not repealed; they thought that such an intimation would not be decent in them, as it would appear like a threat; but what their respect for parliament would not suffer them to utter at the bar, they had said to him in private; and he believed he might assure the committee, if the bill was not repealed, the tobacco manufacture would be lost to this country, Indeed the evidence of Mr. Baker, who made the cutting machines, proved that the danger was nearer than gentlemen might apprehend; it proved that orders from abroad for those machines had increased, whilst the home orders had greatly diminished. One hardship, perhaps, greater than any other, considered in a mere commercial light, which the manufacturers suffered under this act, was, that the mysteries of their trade were laid open, to the irreparable injury of their families and fortunes. Of the value of some of these mysteries the committee might form an idea, when they recollected that it had been proved in evidence that one manufacturer had refused 20,000*l.* for the disclosure of a secret in the manufacturing of tobacco peculiar to himself

Mr. Sheridan now asked the chancellor of the exchequer, what were the mighty advantages gained by the revenue, which could be considered as a compensation for such hardships and encroachments? To show that the advantage to the revenue was not such as could induce the legislature to continue so oppressive an act, he calculated what the customs on tobacco had produced before the act, and what the customs and excise on the same article had produced since. In the first winter half year, after the act passed, the produce was 294,000*l.*, the produce of the second, or summer half year, was about 317,000*l.*, in all 611,000*l.*; from which about 51,000*l.* should be deducted; because, though having been actually levied upon the article within the year, it was for several reasons not to be considered as likely to prove a permanent part of the gross produce of the revenue on tobacco, but rather as occasioned by a temporary cause, which probably would never return; this would reduce the revenue on this article to 560,000*l.*, which was just 25,000*l.* more than was collected on tobacco before this act passed. Would any man, to whom the rights of the people were dear, for so insignificant an increase of revenue invade those rights? But above all, would he, for such an increase, risk the loss of the whole? which he verily believed would be felt if the act was not repealed. If the minister wished to avail himself of the resources which he could still find in a new regulation of the revenue, he might raise a very considerable supply without laying any fresh burthen upon the people, or abridging their liberties. In the customs there was great room for improvement if the treasury would give up its patronage. He did not mean to disclose the secrets of the prison-house from having been in it. But every one knew that the business of excise was better conducted, than that of the customs, merely because the patronage of it was in the board of excise, which was responsible for the conduct of all its officers. But in the customs it was different. The coasts of the kingdom were parcelled out into various districts; and persons were appointed to those districts by the treasury, not because they had superior ability or merit, or were disposed to show themselves enemies to smuggling, but because they were recommended from quarters in which recommendation, on account of election interests, was irresistible. He meant not to cast any particular reflection on the present treasury board; its conduct on this head was perhaps the same as that of all boards which had gone before it. All he meant was, that if a minister would dare to be bold in the cause of his country, he might make the customs infinitely more productive than they were at that moment.

Towards the close of his speech, Mr. Sheridan mentioned a hard case, perhaps little known, of a gentleman's coach and horses being liable to be seized if he took two pounds of snuff with him into the country; and that they were forfeited if seized after five o'clock. He declared that he saw no reason why the house of the honest, industrious manufacturer should not be as safe and as sacred as the proudest mansion. He instanced the spirited conduct of Mr. Eddowes of Chester, who, at the expense of a great part of his private fortune, had maintained a contest with the corporation of Chester, on a public occasion, in which he had no other interest than a desire to check oppression, or what he thought oppression. That Mr. Eddowes (whom he would show to a foreigner, and say, this man has

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spent the income of a petty German principality, to do a public justice), after being examined at the bar of that House, and saying, that he had been obliged to deceive the officers, was treated with an agreeable companion in a stage coach the next day, who proved to be an exciseman, and who, the day after their arrival at Chester, kept him fourteen hours in his manufactory weighing his stock. Mr. Sheridan conceived that the naval service of the kingdom might, with honour to itself, and great advantage to the nation, be employed in the collection of the revenue. Though he was of opinion that the tobacco act ought to be repealed, still he did not intend to make a motion to that effect; because the minister might then say that he would modify the act, and render it less objectionable; but his object was to withdraw the tobacco totally from the management of the board of excise. Upon this principle, it was his intention to move a proposition that should show that it ought not to be excised at all. Mr. Sheridan now concluded his remarks by moving the following short resolution: "That the survey of the Excise is inapplicable to the manufacture of Tobacco."

Mr. *Pitt* observed, that although the hon. gentleman, at the conclusion of his speech, had so far changed his ground as to warrant the position that "the survey of the excise is inapplicable to the manufacture of tobacco," yet, at the outset, he had carried his argument exceedingly beyond the extent of his motion. If he had, last year, entertained an expectation that applying the excise laws to tobacco would prove a desirable measure, he was confirmed in that opinion by the experience, short as it was, which the few months since passed had afforded him, and every reason which had induced the House to pass the bill of the last session, would, he was confident, now come before them considerably strengthened, and urge the propriety of its continuance with irresistible force. The chief turn of the hon. gentleman's argument had been directed against the whole system of excise, a system which raised no less a sum annually than six millions and a half of the revenue, and without which system, he believed, neither the resources of the country, nor the ingenuity of man, would be competent to raise so considerable a sum. The hon. gentleman, though arguing so generally against the excise, had in his motion, stopped short, and objected barely to the excise on tobacco. The hon. gentleman, while he was eagerly contending for equal justice, and for the general enjoyment of a trial by jury, had in his motion, omitted all who were concerned in the various processes already subject to excise laws. He was willing to leave the manufacturer of malt, the manufacturer of sope, the manufacturer of starch, the manufacturer of candles, and the dealers in wine and spirituous liquors, subject to all that intolerable tyranny and oppression which he had described with so much energy and eloquence. The hon. gentleman had invoked the regard which every man felt for the constitution, because 337 manufacturers of tobacco, who, themselves proposed last year the extension of the excise to all dealers in tobacco and snuff, upon a proposition that the excise should not attach on the manufacturer, were to be where they were not before. If the tobacco act were to be taken up on general principles, he was at a loss to know how it applied to the constitution more than any other excise bill, passed at any former period; and therefore stopping short as the hon. gentleman had done, and confining himself solely to the tobacco act, his argument was inconsistent, imperfect, absurd, and contradictory. He hoped to find that there were no persons desirous of instilling the principle which could only go to destroy the credit of the nation, and by annihilating the revenue, force us to a public bankruptcy. If the revenue were once overthrown, it would not only destroy that happy and envied contrast between us and the nations in Europe, but place us in a situation below the pity of other powers, and even beneath that neighbouring nation which was at this time in a condition the most distressful, and which most entitled her to compassion. No person, he should conceive, would deny that the general system of excise, temperately pursued, was too useful and too advantageous a means of collecting taxes to be rashly or lightly abandoned. He would state as shortly as possible what he imagined to be the general system of excise: it was the empowering an officer to weigh and measure the stock of the manufacturer of any particular commodity from time to time, so as to enable the officer to judge whether the manufacturer had made any increase of his stock; and it naturally

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followed, that in this system when the duty was estimated, and out of the charge of the officer, part or the whole of it was liable to be removed and altered, unless the officer had power to watch over their transit, to collect the duties as fast as they arose, and to enforce their collection in a summary way; and in order to secure some relief to the tradesman from the possible oppression or overcharge of the officer, a summary jurisdiction was provided, and thence the true reason of that species of jurisdiction which was the only one which could possibly apply to the nature of the case. The hon. gentleman seemed to doubt whether trials by juries were necessary or safe in cases of excise; he doubted also: if a means could be devised of rendering that sort of jurisdiction safe and applicable, no man would be more happy than he should to adopt and apply it to cases of excise. The hon. gentleman had remarked, that many parts of the excise system were defective, and flagrantly unjust. He wished the hon. gentleman had specified those parts. He had said indeed, that persons had been deprived of a considerable part of their property, under the operation of the excise laws. He had it in his power to give the hon. gentleman some information respecting the subject. Mr. Pitt then produced an account of all the prosecutions that had been instituted on the subject of excise within a given period of time. The number of informations tried had been 5000, and the whole of the penalties and forfeitures on the London prosecutions amounted to 3,565*l.* If the penalties levied in the country were levied in the same proportion, the whole would be 7,000*l.* upon a public revenue of six millions and a half. This he considered as a strong proof that the summary proceedings of the excise were not very oppressive, and it by no means justified the general and unexplained clamour attempted to be raised throughout the country. There were, however, other summary jurisdictions in the kingdom, entirely independent of the revenue, such as the magistrates; the penalties from which, for the same time, amounting to 26,000*l.* Mr. Pitt contradicted the assertion, that the present act had injured the export snuff trade. It was the duty of that House to receive, with considerable caution, the evidence delivered at their bar. He doubted not but they were under some inconvenience by the act. Every man put out of his way felt an inconvenience at first, but time and experience accustomed him to it. Assertions, however, that they could not carry on their trade he should not easily credit, because he could not help thinking that the tobacco manufacturers had felt an interest that was directly at war with the interest of the public. The hon. gentleman had said, that no commerce had increased or prospered under the excise: he declared the assertion was notoriously ill-founded. In contradiction to that assertion, he referred the committee to the late excise on wines; gentlemen would also recollect, that when the wine was proposed to be put under the excise, the trade unanimously declared, that if such a law should be made their ruin was inevitable. The fact, however, had proved otherwise; for instead of ruining the fair trader, it had nearly doubled his consumption, the imports being now annually 26,000 tons; whereas, before the excise, but 13,000 tons were legally imported in a year. He had one more reason for doubting the evidence of the tobacconists, and that originated with the hon. gentleman, who had compelled him to believe that there had existed a fraudulent collusion amongst the manufacturers; for the hon. gentleman had stated that the manufacturers were, before the act, the only medium for conveying the illicit tobacco from the smuggler to the consumer; and taking this for granted, and the statement of the tobacconists themselves, that eight millions of pounds weight were annually smuggled, the consequence would then evidently appear, that for years they had divided among them 400,000*l.*, of which sum the revenue had been defrauded; and, if an average could be taken, each man's share of this plunder was more than 1000*l.* annually. The House being in possession of this notorious fraud, he was sure it was not asking too much of them to weigh well the evidence before they decided against the remedy already provided for the evil. He mentioned the mildness with which the act had hitherto been carried into execution; no penalties having been levied where the officers had been satisfied that the increase arose from no bad cause. The hon. gentleman thought proper to contend, that the tobacco manufacturers' spirits had been broken by being obliged to go to the excise office; but he could not believe that the spirits of any honest

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man were ever broken by being obliged to prove his innocence. Mr. Pitt mentioned the case of Sales and Pollard, whom the hon. gentleman had represented as more hardy men, and who had disdained to have concealed their increases. There was a good reason for it; they were conscious they had committed no fraud, and no penalty was levied. The committee of the manufacturers had made what they termed an abstract of the evidence, and done him the honour to send him a couple of them, one of which he held in his hand. In that abstract, Mr. Postlethwaite had copied an erroneous statement of increases for fourteen years, made by him in delivering his evidence relative to an article of roll or twisted tobacco. Mr. Pitt explained the nature of this mistake, and grounded some reasoning upon it, to prove that manufacturers, who could state such an error in print a second time after it had been once pointed out to them, were men concerning whose correctness in their evidence some doubt might reasonably be entertained.—To the hon. gentleman's argument relative to the manufacturer having it in his power to mix smuggled goods with his work or manufacture, which the officer dared not weigh, it was sufficient to answer, that if he had ground of suspicion that there was smuggled tobacco the officer might insist on weighing it. The officer weighed it at his peril, and the manufacturer was open to legal decision. As to the great danger of the manufacturers' secrets being exposed, for which such great sums may be had; if the secrets were ever of such great value, he should think the value had already sunk to nothing, because, if the mystery was any thing more than some chemical process, the manufacturer's workmen must have got at it. Indeed, the hon. gentleman had said, that it was known before; that the smuggler imitated the flavour of the particular snuffs, and thus counteracted the fair trader.—Mr. Pitt met the argument about lowering the duty, by observing, that the duty was as he found it; and that a reduction to 7*d.* would not answer. The present act answered every purpose of increasing the revenue and the trade of the fair dealer, by taxing the smuggler. Amendments were certainly necessary; and it was his intention, to move for leave to bring in a bill to explain and amend the act of last session. During the existence of the act, the consumption had very considerably increased, which was a conclusive answer to the assertion that the act would drive the manufacturer from this country. The public had already, in the two least productive quarters of the year, received 130,000*l.* over and above the revenue from tobacco in the same quarters before the act passed; and in all probability, the difference on the next two quarters of excess would make the whole produce of difference 300,000*l.* at the least.

Sir *Grey Cooper* said, the right hon. gentleman had admitted that, if it could be proved that the survey of excise was not applicable to the manufactures of tobacco, the bill must be repealed. He had admitted, that if the applicability of the excise to other articles now subject to that survey could be materially distinguished from the article of tobacco, the present act could not be maintained. He asserted, with perfect confidence, that there was the clearest distinction between the principal articles now subject to the excise, and the manufacture of tobacco. The mode of charging and collecting the duty on malt, beer, soap, candles, spirits, and glass, was totally different from the survey of excise directed by the bill. In the making of malt, beer, &c. there are several processes in the manufacture; there are rests, intervals, and stages, at which the officer can take his gages and make his charges; but, in the manufacture of tobacco, there are no intervals or stages, no series of processes regularly succeeding each other; no gage can possibly be taken by the officer, no charge of duty can be made. It follows, that the ground work of the whole system of the survey, by this act, must be the weighing the stock from time to time. But by clause 101, no tobacco, whilst it is actually in the operation of manufacture, shall be weighed by the officer. From this necessary regulation the following dilemma arises. If stock is taken in operation it must ruin the manufacturer's goods, and totally put an end to his business. If it is not taken in operation, the survey of excise can be of little use, as the fraudulent dealer may cover any quantity, without the officer being able to detect him. From these premises it follows: 1. That there is no mode by which the survey can be made, save only by taking the whole stock of each manufacturer. 2. That stock cannot be taken by any other manner than by weight. 3. That it is abso-

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lutely necessary to except from being weighed, all that part of the stock that is in actual operation of manufacture. 4. That this exception destroys the rule. For the conclusion is, that the weighing a part of the stock at different times can never give the sum total of the whole remaining at any one given time. The next great objection arises on the clause 98, which fixes the table of allowances. It is absolutely necessary that some table or scale of allowances and credit be formed, in consideration of the difference between the weight of the tobacco when it is laid down for manufacture, and when out of operation! but it appeared by a strong body of evidence, and by a powerful combination of experiments and facts, that the present credits were erroneous and ill adjusted to the various operations which the material undergoes in process, and that no other criterion could be fixed that will not subject the fair manufacture to inevitable penalties, and afford unbounded latitude to the frauds of the smuggler. It appeared to him to be physically impossible to fix a table of allowances as a guide to the officer in the execution of his instructions that will do justice at the same time to the revenue and to the manufacturer, He did not think that a rule could be fixed for all operations of roll or pigtail tobacco, or rappee or Scotch snuff, when it is in evidence that the result of every process depends upon the texture and quality of the raw material, on the place where it has been kept, on the quantity of liquor put into the parcel to accelerate or to retard the fermentation, and, above all, on the moisture or dryness of the atmosphere during the course of the operation. The credits came at last to be decided not by rule but by accident. Milton's description of Chaos is not an overcharged representation of a process of manufacture going on, and of an exciseman standing by to watch the result of the operation.

"For hot, cold, moist, and dry, four champions fierce
Strive here for mastery—Chaos umpire sits,
And by decision more embroils the fray
By which he reigns; next him, high arbiter!
Chance governs all."———

This part of the act has not been executed: the commissioners assumed a dispensing power, and suspended the penalties which all the fairest traders had incurred without the least intention to defraud the revenue. With respect to the general question, touching the system of excise laws, that question was not now directly before the House, and he did not wish ever to hear it proposed. But a very serious apprehension relative to this matter rose in his mind, namely, the danger of persisting in this experiment, if there be even a reasonable doubt that it cannot be executed without injury to the fair trader, and without giving advantage to the smugglers in the same proportion. A plan, however well it may be designed and improved, if it is to be executed by unskilful hands and with improper materials, may spoil not only the work, but the tools with which other work is to be done. The excise itself may receive prejudice, which, when it is applied to proper objects, is the most efficient mode of collecting revenue, and the surest protection to the fair trader. The payment of the interest of the national debt and the power and independency of Great Britain depend on the excise. An immense revenue is now collected under its survey, without any murmer or complaint. It may be very dangerous to indispose the public opinion to this mode of collection more than it is at present.

Lord *Carysfort* expressed a fervent wish that nothing might affect those institutions of our ancestors, which every man who loved his country, must wish should remain inviolable. He stated that tobacco was clearly a luxury of life, and not a necessary; that it was a fair object of taxation, but, in his opinion, a much fitter article for home manufacture than export, and that therefore it was not so desirable that the export should be increased as the manufacture, and consequently, being from its nature capable of being illicitly itroduced into the kingdom, the large revenue that the country had a right to expect from it could not remain secured without the application of the laws of excise. He observed, that the excise had been applied to the same article in France and other countries.

Mr. *Windham* could not avoid considering the speech of the chancellor of the exchequer as a laboured panegyric on the whole system of excise laws, and such as perhaps never before had been heard in that House. The right hon. gentleman had argued unfairly with his hon. friend, in order to get him into a dilemma. His hon. friend had laid a good deal of stress

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upon the oppressive system of excise laws, but had guardedly avoided making their repeal a necessary measure, as connected with the repeal of the tobacco act, by saying, "if any man asks me whether I wish to abolish the whole system of excise laws at once? I will answer that by another question, Do you mean to extend them indiscriminately to every object of taxation whatsoever? That put the matter fairly at issue, and was, in fact, the jet of the question as to excise laws in general, and therefore he was quite astonished at hearing the right hon. gentleman say, that if his hon. friend had acted consistently, he must necessarily move to repeal the acts which placed the manufacturer of numerous other articles under the excise. He wished to call the attention of the House to one point, which he conceived to be important. The tobacco act, like all excise acts, was to be considered in two different views, as a matter of finance, and as a constitutional question. In the latter light excise bills were usually considered, because their effect was clearly unconstitutional, inasmuch as those upon whom they attached were placed in a situation where innocence was no protection. It was no justification of a minister's measure that it would answer his present purpose, nor was it true, in all cases, that a minister could not serve his trust so effectually as by serving his country; it might happen that the present interest of the minister might not be consistent with the future good of the country, to which that House was in a peculiar manner bound to look on every occasion. He reprobated the excise laws as a pernicious and unconstitutional system, and pronounced every extension of them as an evil which ought to be resisted. He lamented that the monied interest had so totally corrupted all ranks of people that they seemed entirely to have altered their notions upon great political subjects, on which formerly every man felt alarm and jealousy. He took notice of what lord Carysfort had said relative to France, and declared that what had been hitherto the practice abroad, necessarily made foreign countries and especially a neighbouring kingdom, an improper school for our youth to learn notions of civil government in. As the manners of France and all their political notions were changed, ours seemed to have changed in an inverse ratio. The French had become free, and we had abandoned our plain home-spun notions of constitutional jealousy and suspicion for personal confidence in a minister, and blind attachment to court measures. The trial by jury was one of the jewels of our constitution, and a privilege of which the subject ought never to be deprived. The House by multiplying excise laws, were weakening the establishment of that glorious franchise, and by resisting them sturdily, even at the expense of some revenue, their constituents would see that they would not "sell for gold, what gold could never buy." He thought gentlemen would do well to consider the tobacco act in two points of view, first, as a question of revenue; and next let them inquire what were the advantages to be expected from it, and what the disadvantages. No point ought to be pushed beyond a certain extent: that excise itself, useful as it was in certain cases, might be disgraced and degraded by being injudiciously used, as a tool or instrument might be spoilt by being worked with too much; but when they had examined the present measure fully they would be able to judge how far it ought to be adopted. In the conclusion of his speech Mr. Windham observed, that alarming indeed was the conduct of the minister on this trying occasion; for is was now avowed that the excise was to be limited only just as the state of our finances might admit. If this was the case, the whole country might prepare to receive a general excise, and the tobacconists would not long complain alone, for the whole kingdom would be involved in the same fate; nor had he any doubt but that if this bill were to be carried, all attempts to oppose a general excise would be fruitless.

Mr. *Fox* observed, that he also, in his turn, could not avoid upbraiding the chancellor of the exchequer for having gone into a panegyric on those excise laws which were founded on a complete system of tyranny and oppression. He must complain, likewise, of the manner of the right hon. gentleman's answering his hon. friend, by saying, "If you say this, you will repeal the existence of all the excise laws." If the right hon. gentleman could have refuted what his hon. friend had said by argument, it would have been competent for him to have done so; but to dare him thus to undertake what he not only never had undertaken, but on the contrary, expressly provided against, was to answer arguments

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by mere declamation, and could be done only with a view to intimidate. Mr. Fox said, that when he saw a large revenue obtained by being collected under the excise laws, he did not admire those laws; but he admired the unexcised iron manufactory, the unexcised manufactory of Staffordshire ware and pottery, the unexcised woollen, cotton, and fustian manufactories, by means of which the subject was enabled to pay taxes to so great an amount. "When I look," added Mr. Fox, "at the excise, what is it that I admire? Not the excise, but the unexcised trade which enables us to bear it! Not the produce of the tax upon beer, which is very great, but the industry, and consequent wealth, which enable us to drink it!" From the language of the right hon. gentleman that day, as well as from what had fallen from another right hon. secretary on a former day, he suspected that there was not one article to which the excise might be extended, which it was not in the contemplation of the present administration, if necessary, to apply it to; and therefore, any apprehensions which he had before entertained on that point, were now much increased.—Mr. Fox defended several parts of Mr. Sheridan's speech, and charged the chancellor of the exchequer with having grossly misrepresented them. He pointed out two or three passages, and compared them with the chancellor of the exchequer's answer to prove this assertion. He mentioned the uniform tenor of statement in the petitions, as a proof of the validity of the declarations of the manufacturers, that the excise was inapplicable to their manufacture, and he cited the excellent characters of Mr. Postlethwayte, and of Messrs. Pollard and Sale, and others, as the refutation and answer to the chancellor of the exchequer's declaration, that he doubted the credibility of the evidence. Their reputations were, he said, completely established, and they were known to be as free from smuggling as any gentleman in that House. He argued, therefore, against the unfairness of insinuating a doubt of their veracity, and the more especially, as the right hon. gentleman had himself admitted, that, with regard to the secrets and other points, he had no means of ascertaining whether what the manufacturers had stated, was the fact or not. When the manufacturers did him the honour of a visit, they all uniformly and invariably stated, that Messrs. Sale and Pollard were in possession of a secret in giving a peculiar flavour to snuff, for the purchase of which they should think 20,000*l*., if they could conveniently spare the money, well laid out. Why, then, was the right hon. gentleman to doubt such a fact, especially when he could not disprove it? Mr. Fox remarked, that from the moment that he was told the weather made a variation in the article under manufacture, he pronounced it impossible to make an allowance for that, capable of meeting the case; and what sort of an act, he would ask the right hon. gentleman, was that to prevent smuggling, when a gentleman of a most unimpeachable character (Mr. Eddowes), fairly and boldly said, that by doing what he never should be ashamed of, he had incurred penalties to the amount of 1300*l*.—His hon. friend had said with much warmth, and much truth, with much justice and much reason—and what the right hon. gentleman had not answered at all—that those were bad laws which subjected innocent men to penalties, and that it should depend on the mildness and forbearance of his majesty's servants, that the harshness of those laws were meliorated and softened. If it were true that there had not been penalties exacted, and that those penalties had been incurred where the parties were perfectly innocent of any criminality, it must not be from the leniency of the laws, but of their execution, that the subject had escaped unmerited punishment; and thus the great maxim of our constitution was violated, that we ought to be governed by laws and not by men, not by the leniency of the officers of the Crown, but by the acts of parliament on the statute book. If, therefore, the tobacco act was not repealed, he feared that this discovery would be made to the country, for which no man who loved the liberty of his country, could possibly wish:—that where men are aggrieved, they must apply for redress only from the king's servants.—Mr. Fox justified that part of Mr. Sheridan's speech which treated of the excise laws in general, and contended that whenever an excise bill came under discussion, he had a fair right to canvass the excise laws in general, without having it thrown in his teeth that he wished to overturn the revenue of his country. He reminded the committee, that they ought never to forget that the common law of the land was the rule, and the excise laws the exception.

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He held the example of putting the wine under the excise a bad example, declaring that, to his knowledge, it had been attended with much oppression, and was pregnant with infinite inconvenience; a private gentleman, if he wished to move his wine from one house to another, not having it in his power to send his servant to the excise office for a permit, but being obliged to go himself to the office, and make an affidavit, before he could obtain what he wanted.

Sir *James Johnstone* declared, that he disliked the extension of the excise laws; but the revenue must be had, because the nation was loaded with a heavy debt, and the interest must be paid. Yet, if the excise laws were obnoxious, why did they not double the land tax, or the house tax, or the commutation tax? The money must be had to pay the public creditor.

Mr. Secretary *Grenville* said, that if the picture which the hon. mover had drawn of the excise laws was just; if it were true, that they formed a system of atrocious tyranny and oppression, such as was not proper for a free people to live under, the House ought not to confine themselves to a repeal of the tobacco act, but of every excise law in existence, and thus destroy at once six millions of revenue. If, on the other hand, as the fact undoubtedly was, the laws of excise had existed near a century and a half, to the great benefit of the revenue, and without any great inconvenience to the subject, there could not be a greater enemy to his country than that person who stated that no laws could be more incompatible with the liberty of the country than an extension of the excise laws, and thus raised a clamour which might terminate in the abolition of all the existing laws of excise, by which the nation might be driven into bankruptcy, and all that anarchy and confusion which now prevailed in France, where the want of an adequate revenue had been one among the primary causes of the disorders. It was admitted, on all hands, that tobacco was a fit object of taxation and of revenue, and that, under the former system, the manufacturers of tobacco did not pay duty for more than half the tobacco imported. Some regulation, therefore, was absolutely necessary, and what regulation could be so efficacious as the application of the excise laws? That the tobacco act was an evil, he should not hesitate to admit; excise bills of every description were undoubtedly evils; but the fair way of arguing such a measure was, to see whether the advantages did not counterbalance the disadvantages. Let the committee remember, that many thousands of persons were already under the excise laws, and that the tobacco act only added 337 to the number; and that they might go over the whole system of laws of revenue, and not find one article by which so much money was raised with so little extension of excise? They had already reasonable ground of expectation that the country would receive from 130,000*l.* to 300,000*l.* of revenue, over and above what had been obtained from tobacco before the act passed.

Colonel *Fullarton* said, that every one acquainted with political economy, knew those to be the best objects of taxation, which, being articles of general consumption, but not necessaries of life, afforded the means of raising a large revenue, without oppressing the labouring orders of the community. On this principle, he perfectly concurred with the chancellor of the exchequer, in opinion, that tobacco was a fit object of taxation, and that great abuses to the enormous detriment of the revenue, had occurred in the mode of collecting the duties on that article. That this opinion being so generally admitted by all parties, it became, undoubtedly, an interesting circumstance to know, by what superior ingenuity it had been possible for the chancellor of the exchequer to render this tax upon tobacco, one of the most unequal and oppressive acts, which ever occurred in the annals of exaction. So much had been said to prove the absurdities and contradictions of the present bill, that he should not enlarge on many of those particulars. The hon. gentleman who made the motion had exposed the fallacies and evil tendency of the bill, with a force of argument and eloquence, to which no ingenuity could either add energy of thought or lustre of expression. You have heard much (said colonel Fullarton) on the popular topics, of the hostility of this measure to the principles of the constitution, and of its depriving a great body of men of the trial by jury. But I confess myself not sanguine in the effects of such arguments on the mind of the ministers, who have proved their hostility to the truly English mode of trial by jury, in every quarter of the empire, from Canada

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to Hindostan: neither do they seem to pay more regard to objections drawn from the inconsistencies in the terms of the act itself; such as the highest law authorities in this kingdom have declared to be irreconcileable to practicability or common sense. These contradictions, however, may be justified by precedents drawn almost from every statute which has been passed since 1784. As for the odium and unpopularity of the measures, little can be expected from objections on that ground. All such objections will be treated like the memorial of a well-known character in this country, which, when presented to a great personage, was said to have had no more attention paid to it by his majesty's ministers, than they had shown to the petitions and remonstrances of the whole people of England. —Colonel Fullarton next adverted to the evidence before the House, and said it was completely proved, that the survey of excise, applied to the manufacture of tobacco, or to any other article under the process of manufacture, exposed the manufacturer to oppression and severity; that the survey of excise was particularly inapplicable to the manufacture of tobacco, because the weight never could be accurately ascertained: that the interruptions and delays occasioned to the manufacturer, necessarily enhance the price of the fair trader's goods, and afford still greater latitude to the intrusions of the smuggler: that the manufacturer was frequently obliged, either to leave his goods unfinished, or to make the excise officer acquainted with the secrets of his trade, on which his business chiefly depended: that it was farther established in evidence, that a great portion of the manufacturers time was wasted in the survey of excise; that this survey was so particularly inapplicable to the manufacture of tobacco, that the very excise officers declared at the bar, that they did not know what articles they had, and what they had not a right to weigh, and confessed themselves obliged to apply for information on that point to the manufacturers. It farther appeared, that the licenses operated as an additional tax, unfairly and improperly imposed: that the act attached penalties to the performance of that, which it was, frequently, impossible for the manufacturer to perform, eventually exposing him to ruin, for a change in the atmosphere, or an error in the exciseman: that the prohibitions on removing certain articles in quantities of 200lb. weight or under, rendered it impossible for many of the manufacturers to sell their articles while in good condition: that the different prohibitions on the removing of tobacco, embarrass and impede the progress of the manufacture, and that the general operation of the act sins against the common rules known and recommended by every novice in politics as well as in medicine; occasioning that which even quacks consider to be fatal to their recipes, namely, loss of time and hindrance of business.—Colonel Fullarton next observed, that there was one clause which, however much it had been the subject of remark, stood so prominently forth, marking the principles which characterise the finance system of the present minister, as to deserve the consideration of every man who thought or felt on subjects of revenue; namely, that clause prohibiting the manufacture of tobacco and snuff, except in cities, the suburbs thereof, and market towns. The principle of this clause, if extended to other manufactures, susceptible of the excise survey, would operate as a complete check to all industry and manufacture throughout the kingdom. What was this but saying to that portion of the English people whose lot has fallen in remote and uncultivated places, "your industry and skill shall have no avail here; the poverty inflicted on the place of your nativity shall be perpetuated." Had this been the principle of English legislation, what would have become of the manufactures of iron and steel, and cotton, and silk, and pottery, erected in various remote places? These and many more on the principle of this bill, never could have had an existence. If any improver had proposed to erect a manufacture in such places, a legislature acting on the principles of this would have said, "no; you shall not erect your manufacture in a situation affording cheap labour, firing and subsistence; you shall not erect your pottery where you can find clay, but where you can find a gauger; you shall not erect your iron or glass-work in the vicinity of a colliery, but next door to an officer of excise."—He understood it to be the chancellor of the exchequer's declared opinion, that to think of repealing the oppressive regulations of excise, and to substitute less odious taxes in their place, would involve this nation in bankruptcy, insomuch as six millions and a half of

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revenue were raised by excises. But it was not an excise law, or any other revenue law, which enabled the people of a country to pay a tax; the means of paying a revenue arose from the land, the capital, and the labour of the country. These would remain in greater force, if no excise law ever had existence; they would afford the means of raising a revenue less oppressive to the people, and more productive for the exigencies of the state. A great author on legislation had justly compared the multitude of excise exactions to a hundred punctures in the human body, which subjected the individual to agony, without extracting as much blood as might be drawn from the incision of a single vein. He farther understood the chancellor of the exchequer's opinion to be, that, whenever any increase of revenue should be necessary, it must be had by an extension of excise; and a right hon. gentleman (Mr Dundas) had said, on a former occasion, that to think of increasing the revenue by any other means than by an extension of excise, was no less impolitic than absurd. Now said col. Fullarton, whatever may be the apathy in this country in regard to matters of revenue, let the House and the public at large consider these declarations as striking at the root of all industry, freedom, and prosperity in England. Surely the chancellor of the exchequer and his friends cannot suppose the people of England so blind to every circumstance connected with their own interests, as not to know, that every interuption of labour operates as a direct tax on the wages of labour. When ministers boast of the œconomy and efficiency, attendant on the survey of excise, do they recollect, that in addition to the expenses attendant on an army of excisemen, there are the still more burthensome expenses of interruption and idleness occasioned to the manufacturer? Mr. Eddowes has declared in evidence that a survey of his stock was taken every six days. Do gentlemen recollect, that this interruption alone operates as a direct tax on the wages of labour to the amount of nearly 17 per cent.? But it appears there are other more expensive losses occasioned by this method of collection. Mr. Hutchinson has declared that his manufacture has cost 50 per cent. more than it did before the passing of the act; and, yet, the chancellor of the exchequer boasts of the œconomy attendant on the survey of excise!—Col. Fullarton's next object was to prove that a direct tax on the wages of labour is more pernicious to industry and consequently to national prosperity than the same amount levied on the produce of land, or on such objects as are not absolute necessaries of life. On this principle, that part of the taille in France which fell on labourers and artisans, and the Bohemia tax on industry, as it is called, have ever been considered as among the most unequal and oppressive acts that have occurred in Europe. Applying these observations to the present tax upon tobacco, and to all other articles where the survey of excise is necessary in the process of the manufacture, it would be found that every such interference of the excise survey operates as an interruption to industry, and consequently may be stated as a direct tax on the wages of labour. It unavoidably exposes the manufacturer to various interruptions, throws his men idle, and diminishes the quantity of work they can perform, which is tantamount to taxing their exertions. Such a mode of exaction, therefore, might rather be looked for in the oppressive government of Bohemia than in this enlightened land of liberty. But, if any thing could add to the extravagance of extending such a system in an enlightened nation, such as England, it arises from the circumstance of the period when it has pleased his majesty's ministers to extend that system—at the very moment when every other state in Europe is convinced of the pernicious consequences arising from excises. Of all people in Europe the Swiss are the least oppressed, and among them the name of an exciseman is unknown. Of all countries in Europe, the Austrian Netherlands, have for ages been the most flourishing in agriculture and manufactures, and in that country we find no term corresponding with an officer of excise. On the other hand, let those gentlemen, who still believe that excise has at least the merits of economy and efficiency against smugglers to recommend it, recollect, that in Holland, where that system has long been established, and from whence it was unfortunately introduced to this country, every article of consumption was subject to exactions of excise. In that small territory, there are no less than 50,000 tax gatherers, including revenue spies and informers, and of these tax gatherers the greatest part are excisemen. But,

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what shall the enlightened minister of England say, when even the government of Spain have declared that the kingdom has been nearly ruined by excises? Every one who ever treated of the political affairs of that country have attributed the decline of agriculture, manufactures and commerce to the extension of excise of Alcavala and Ceutos, which subjected every dealer in every article to the visitations of the tax-gatherer: thus reducing the great body of the people who live by labour to indigence and indolence, rather than submit to the harassing of such exactions. So forcible were those truths, that the Spanish government, in order to remedy such evils, appointed a commission to report concerning the means of substituting a simple contribution in lieu of those exactions of excise. A cadartic or register of the extent and value of the property and produce of a large portion of the country was completed. The result was, that leaving the other revenues exactly as they were before the commission, in their report they declare, that, among many others, the following advantages will accrue to the public from the abolition of excises: In the first place the inestimable benefit of every individual exerting his industry and skill in any employment throughout the kingdom: secondly, that an individual, who by the excise system had 96 pistoles to pay, would, by the simple contribution, have only 56 pistoles to pay; and farther, that the great body of the people would be relieved from the oppressions of the tax-gatherers, and no longer subjected to expensive compoundings or ruinous prosecutions. But any one who would trace the pernicious influence of excise in its full extent, must look to the state of Portugal; where some provinces are subjected to every species of excise exaction, others are less severely excised, and some are exempted from them altogether, and the decline or prosperity of the province is proportioned to the degree in which it is excised. But, it is from the history of France that we derive the completest refutation of the finance system adopted by the servants of the Crown. The misery and wretchedness of the great body of the people in France has long been chiefly attributed to the harassing exaction of aides, tailles, and gabelles, impeding the industry and internal commerce of the different provinces, throughout the kingdom. While the prosperity of England (where a much larger revenue is raised, in proportion to the extent of soil and number of inhabitants) has no less generally been attributed to the comparative freedom with which every individual in this country may exert his industry and skill in any occupation, from one end of the kingdom to the other. Here col. Fullarton observing some dissent to these positions, said, he apprehended examples drawn from the recent proceedings of France, might not be acceptable to the chancellor of the exchequer, who had announced himself unfriendly to liberty in that country, and an enemy to what was called, "the new order of things." But, there was nothing more extraordinary in the new order of things in France, and in many other parts of Europe, than the finance system of the right hon. gentleman, considering the time and circumstances under which it had been introduced: the cap of liberty carried in triumph round Paris by the French guards was not more extraordinary, than the despotic gauge of the exciseman, brandished over the heads of every manufacturer in England, by a minister who affected to be the friend of liberty, and who aspired to be the favourite of the people.

Mr. *Dundas* said, he should not have known that a right hon. gentleman alluded to him, when he mentioned a declaration, made by one of the chancellor of the exchequer's friends, that it was intended, in case of any new tax to extend the excise laws still farther, if he had not lately seen in one of the newspapers a paragraph which stated that Mr. Secretary Grenville had said, that the tobacco act only placed 300,000 additional persons under the excise laws; and that Mr. Dundas had declared that it was the intention to apply the excise laws to every new tax which should hereafter be proposed. The assertions were neither of them true; Mr. Grenville in the first instance, instead of remarking that 300,000 persons were placed under the excise laws by the tobacco act, had observed that it would secure a great increase of public revenue, and that the only disadvantage to be balanced against that desirable circumstance was, that it placed 337 additional persons under the excise laws. The expression he had himself used, he would again repeat. A right hon. gentleman (Mr. Fox) in the absence of the chancellor of the exchequer, among other arguments against the tobacco bill then

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pending, had said, that the system of excise laws was not a proper system for a free people to live under: to which he (Mr. Dundas) had replied, that the right hon. gentleman well knew that if there should, unfortunately, be occasion for any new tax to raise a considerable sum of money, they could not expect to render such a tax sufficiently productive to answer its object, without the application of the excise laws.

Alderman *Newnham* said, that as the chancellor of the exchequer had thought proper to impeach the characters of the manufacturers, who were men as honourable as himself, begged leave to tell him, that he was authorized by those manufacturers to challenge him to institute any inquiry into their characters which he thought proper. They were ready to meet it instantly.

Sir *Richard Hill* said, that the other side had produced tobacco enough to enable them to throw dust in the eyes of the committee. He hoped, however, that the chancellor of the exchequer would put the excise under proper regulations, which was the most easy way of raising revenue, and relieving the landed interest. The clamour which was made when trade became touched, reminded him of an old saying of sir Robert Walpole; that "trade was like a hog; pluck but a single bristle and he will grunt; but that the landed interest is like a sheep; you may sheer him again and again, and still he has a fleece at your service." Those who spoke now against the excise laws once made as arbitrary a stretch of those laws as ever was attempted. The hon. gentleman who had brought forward the motion that day, was at that time in administration, and a noble lord whose motto was *Cavendo tutus*, was chancellor of the exchequer. Sir Richard said, he would speak fairly: the present chancellor, who soon after came into office, voted for it, which showed that men voted according to their situation, as a little starling in the chair had whispered to him.

Mr. *S. Thornton* said, that when the hon. mover had first introduced this business, in the present session, he was surprised to hear him assert boldly, that the system of excise could not possibly be applied to tobacco; and he ventured in opposition to that opinion, to say, that although it was generally objected against in London, he believed that some manufacturers in the country, had not found that inconvenience which they at first apprehended, although he knew they wished for some regulations in the subordinate clauses. He believed, they would prefer a reduction of the duty, which he sincerely wished himself, if the situation of the country would permit it. He could, however, think that the system of excise was in no case applicable to tobacco.

Alderman *Watson* expressed his determination to resist every extension of the excise laws, till he saw an appeal from the commissioners of the excise to a trial by jury introduced into each bill of that nature. Great quantities of tobacco had been smuggled, to the infinite injury of the revenue; and it was necessary that some regulation should have taken place: but the excise laws were in regard to the manufacture, so inapplicable, inconvenient, and oppressive, that lowering the duties would not merely check the smuggler, by rendering the risk less worth hazarding, but answer the purpose of obtaining a large revenue.

Mr. *H. Thornton* said, it appeared to him, that a motion for the repeal of the excise on tobacco would be much the most eligible proceeding, and, in this, he would heartily concur; but he begged the hon. mover to reflect whether the resolution now before the House, was a proposition so likely to be agreed to as the simple question of repeal. Now, there were some manufacturers who conceived the excise to be very applicable to tobacco. Among his own constituents in the Borough there was a difference in opinion, though, in general, they were very anxious for the repeal. The chief ground upon which he himself should vote with respect to the question was, the mischief to the constitution, which he feared from the extension of the excise laws, against which he wished publicly to protest; and especially when they were applied to an article in which there was so much uncertainty and variation in weight, which made it necessary to place a more than common degree of authority and discretion in the hands of the commissioners of excise and their officers. Manufacturers and traders were already subject to such continual forfeitures from the operation of the revenue laws, and were, to his knowledge, so continually attempting to make interest with government or the commissioners for relief from penalties undeservedly incurred, that he could not consent to the extension of this

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evil; conversant as he was with such cases, he had learned to sympathise with the traders under these hardships. The supporters of the motion, had laid their chief stress rather on the general mischiefs of the excise, than on the impossibility of making it apply to tobacco, and seemed anxious chiefly to make a stand in this instance, for the sake of checking its extensions in time to come. The present motion, however, had nothing in it which at all condemned the principle of excise in general; and if it should be carried, it would really seem, that the repeal of this excise bill was merely owing to something particular in the case of tobacco, and not to any sort of jealousy concerning the excise, nor to any dread as to its extension. It seemed, therefore, to him, that the question should stand upon the broader ground, and this might be effected either by altering the resolution, or by substituting in place of it a direct motion for the repeal.

Alderman *Sawbridge* could not avoid reprobating the excise laws as a system of tyranny, highly unconstitutional and dangerous; although the revenue must be had, extending the excise laws was paying too much for it. The right hon. chancellor of the exchequer had professed himself willing to sacrifice millions of revenue to make the slaves of the West India islands freemen, and place them in a worse condition than they were in at present, and yet, for a paltry addition to the revenue, he was making slaves of Englishmen, and depriving them of their birthright. He complained of the loss which the community would sustain from the deprivation of its dearest right and privilege, a trial by jury, and the infringement and innovation to which the house of every man was liable, in consequence of the unlimited power given to officers of excise, whensoever their high mightinesses should think fit to invade it.

Sir *Watkin Lewes* said, that whilst they were contending for a revenue, they were losing more in the general commerce of the country than they were gaining in revenue. The high duty would induce the merchants to consign their property to foreign countries instead of this, and to take their commodities and articles in exchange in preference to those of this country. He should heartily support a motion for the repeal of the act.

Alderman *Le Mesurier* thought the motion ought not to be altered at all, being satisfied that the survey of the excise was inapplicable to tobacco. He had received instructions from his constituents, to oppose every extension of the excise laws, as a system big with tyranny and oppression.

Mr. *Sheridan* observed, that notwithstanding that he might claim a right to speak more than once in a committee, and notwithstanding that it was usual, when the House was not in a committee, for it so far to extend its candour, as to permit the mover of any proposition to rise in reply at the end of the debate, he was not insensible of the indulgence he had already experienced, and therefore should not long trespass on their patience. He should begin with what had been said by an hon. baronet, who had appealed to the landed interest to support the bill of the last year, and complained in bitter terms of the loud clamour made whenever the trade of the country was touched, saying, that if a single bristle was plucked, it grunted and made a strange kind of noise; but that the landed interest was like a sheep; it stood still, and would let you fleece it again and again without a murmur. The hon. baronet unfortunately forgot, that he was, at the very moment, furnishing an instance in his own person, that the landed interest was not always so passive an animal: and he had forgotten likewise that he had paid the right hon. gentleman a curious compliment, by ending his speech with saying, that the right hon. gentleman had voted for the excise bill (of which he complained so loudly) because the administration of that day was tottering in their seats, and he saw that he should soon come into power. With regard to the situation which he had held when the case to which the hon. baronet alluded, had taken place, and which the hon. baronet had described as the most enormous extension of the excise laws ever practised, the hon. baronet had done him more honour than he merited, the place which he filled at the time being merely a subaltern and subordinate situation: but, he would not answer what the hon. baronet had so pointedly urged against the chancellor of the exchequer of that day with any argument; he would answer it with his name; it was lord John Cavendish; and the measure alluded to, which had been so well explained by the worthy magistrate near him, had been received, whether by grunting and groaning he

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could not say, but with as much unjust clamour as any measure ever experienced. Mr. Sheridan next proceeded to take notice of the misrepresentations of the chancellor of the exchequer, who he remarked, had treated him, the bill, and the manufacturers all alike, having mistated his arguments, misrepresented the manufacturers, and misconstrued the act of parliament. The right hon. gentleman was the only person who had affected to disbelieve the manufacturers, although the manufacturers had last year delivered precisely the same evidence at the bar of that House, and afterwards confirmed it upon oath at the bar of the House of Lords. If the right hon. gentleman had doubted the truth of the evidence of the manufacturers, it was his duty, in justice to himself, and in fairness to them, to have called other witnesses to have disproved what they advanced. Not having done this, he had no right to doubt the veracity of men as honourable as himself, and as incapable of acting dishonestly with respect to the revenue as the whole board of treasury itself.—The right hon. gentleman, taking advantage of that part of his argument which reprobated the oppression of the excise laws, had charged him with wishing to pull down the whole system and, thus, at one stroke, annihilate six millions and a half of yearly revenue. This was a most unfair way of meeting his argument. The right hon. gentleman seemed to have forgotten, that, wherever any extension of the excise laws was under consideration, it was usual to argue the question in that House, not on the narrow ground of the particular hardship on the point of being inflicted, but on the broad constitutional ground, with a view to the danger of which the extension of those laws threatened to place the freedom and liberties of the people. This had been the case in the cyder tax, when in the course of debate it had been said, that, "the winds of Heaven and the elements might enter the cottage of the peasant, but not the king, without the peasant's permission." This was not a mere flight of poetry; but at once a lively, fanciful, and forcible effusion of the mind, founded on the good old English proverb, that "every man's house is his castle," which was in fact the very essence of Magna Charta. He need scarcely add, that the person who had used the expression which he had just quoted was the earl of Chatham, who had not thought it wrong to argue the question of the cyder tax upon the general principle of the excise laws, and their unconstitutional tendency. But there was a manifest inconsistency in that part of the chancellor of the exchequer's argument, in which he charged him with wishing to pull down the whole system of excise, and in the same breath had declared, that he (Mr. S.) was willing to leave the manufacturers of soap, candles, starch, and all the rest of the manufacturers at present subject to the excise under the oppression and tyranny of those laws. It was absolutely impossible, as the committee must see, for the two things to be true, because they directly militated against each other. Another point in which the right hon. gentleman had totally mistated him, and in which, indeed, his right hon. friend near him had also a little misconceived him, was, in respect to trial by jury; both imagining that he disapproved of a trial by jury, in cases of excise. He had expressly declared, that if a general reform of the excise laws were to take place, he saw, that in such a case trial by jury might be applied to them as a part of that reform; but he had asserted, that he would not accept of trial by jury being proposed by a minister, in a single and particular case, by way of decoy, and in order to delude the House and the public into an acquiescence with the application of the excise laws to the manufacture of tobacco. He would not graft, or approve of a graft of that kind, on so vile a stock, being convinced that the tree could not produce good fruit, and that so beautiful and excellent a head as a trial by jury ought not to be annexed to so deformed a trunk. The right hon. gentleman persevered in maintaining that the manufacturers had kept back some intelligence from him, and had to thank themselves if he did not do them all the justice that their case might require. The fact was, that when he (Mr. S.) found them prepared to propose a repeal of the act of the last session, he had, at their very first meeting, advised them not to apply to the opposition, but at once endeavour to get redress, through the medium of his majesty's ministers, which, in all matters of revenue, he thought the properest hands for alterations of the revenue laws to come from. The answer they gave him was, that they had been at the treasury with the secretaries, and had seen Mr. Pitt, and that their reception

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did not encourage them to hope for success; and therefore, they were determined to apply to parliament, through the medium of opposition, wishing that their case should come before that House, and the public. But the right hon. gentleman's mode of treating the manufacturers was curious. They go to him, and tell him, "that their objections to the bill were fundamental; that no modification of it will meet their ideas; they object to the principle, and nothing short of an actual repeal can gratify them, as they must, at all events, have the excisemen kept out of their manufacture." Having stated this, the manufacturers ask the right hon. gentleman if he will consent to give up the principle? The right hon. gentleman answers, "No; the principle must not be abandoned, but, do you inform me how I shall alter the bill." This the manufacturers wisely refuse; for what was it but the minister's saying "I have a yoke to put about your necks, do you help me in fitting it on; only assist me with your knowledge of the subject, and I'll fit you with the prettiest pair of fetters that ever were seen in the world." As to the argument, that there was a great increase of revenue in consequence of the act continuing in force, he held that to be no argument at all. He never wished to count the money, when he was certain that the purse which contained it, with all its contents, were stolen. Every person knew that the right hon. gentleman could make out an account so as to give any calculations he chose to bring forward a plausible appearance. The right hon. gentleman had calculated three several ways, saying to the committee, "Take it this way, and you have 50,000*l.* Take it this other way, and you have 70,000*l.*; and take it this other way, and you have 130,000*l.*" Now, there could be only one fair mode of calculating what the produce of the tax, while under the excise laws, was. This mode he had stated, and it was clear that the utmost increase they could expect was trifling indeed; but if the right hon. gentleman's highest calculation of increase were founded, he should still be of opinion, that the bill ought to be repealed. He never had heard such unconstitutional reasons urged within those walls, as had been stated by a noble lord (Carysfort) for applying the excise to tobacco. The noble lord had contended that tobacco was a luxury, and therefore a fit object of taxation, and that the most efficacious way of making it productive was, to put it under the excise. But, because tobacco was a luxury, were those who were concerned in its manufacture wholly unworthy of protection? Had the noble lord forgotten that there were beings called men, who were manufacturers of tobacco? that those men were their fellow subjects, entitled to the enjoyment of the same rights and the same privileges as themselves? The noble lord had also argued, that the less the export of tobacco, the better: that was as anti-commercial a principle as he had ever heard. But the practice of collecting taxes in France had been recommended by the noble lord. Surely, when France had happily thrown off the yoke of oppression, we were not going to pick up the discarded trash of tyranny, and deck ourselves out in the cast off dirt and dregs of despotism! He did not mean at present to go farther into the subject of France, nor should he forbear from any apprehension of differing in opinion with any other person, more especially with one (Mr. Burke) for whose talents and personal virtue he had the highest veneration and regard, and with whom he might be allowed to differ in opinion upon the subject of France, persuaded as he was that they never could differ in principle; all, however, that he would say farther on the subject was, that he hoped, when the new constitution of France should be settled, it would prove such as would secure the blessings of liberty to the subjects of that kingdom, having ever been of opinion that it was not right that this should be the only free country in Europe; but still hoping that, as we had hitherto preserved the glorious superiority of being the only spot in which the subjects were governed, not by the will of individuals, but by laws which they made for themselves, we should continue to be pre-eminently free, and have no badge of slavery fastened unnaturally on our constitution.—Mr. Sheridan next took notice of Mr. Dundas's defence of what he had formerly said relative to the extension of the excise laws in future. The right hon. gentleman had himself confessed, that what he had on a former occasion said, was neither more nor less, than, that whenever a new tax to raise a large sum should be necessary, every gentleman well knew that it could not be rendered productive in its collection, without the

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application of the excise laws. Another right hon. gentleman (Mr. Grenville) had avowed the doctrine of pushing the extension of the excise laws in a broader manner than any other gentleman, and had said, that by only placing 337 persons more under the excise laws, the revenue obtained 130,000*l.* This was appreciating the liberties of Englishmen, and the first instance of the kind which they had ever heard. As the right hon. gentleman was an excellent calculator, he would recommend him to form a table of the prices of freedom, which he was persuaded he could do with much greater accuracy than the tables of increase in tobacco. In a short time he should then expect to see, at one view, the different appreciation of the rights and liberties of every description of persons. Perhaps it would run 30*l.* for the liberties of a man, 20*l.* for those of a woman, 15*l.* for those of an apprentice, 10*l.* for breaking into your house in the night time, and so on in gradation. Mr. Sheridan next came to the declaration of Mr. H. Thornton, that he would vote for the repeal of the act of last session, or any motion relative to it short of the declaration contained in the question then before the committee. He contended that his motion was tantamount to a motion for an actual repeal; but that in the hurry of committing it to paper, he had omitted to state it in the manner, according to which he had opened and argued it. Instead of its standing nakedly, "That the survey of the excise was inapplicable to tobacco," he meant to have worded it, "That it appeared to the committee, from the evidence of the manufacturers, that the survey of excise was inapplicable to tobacco." It was perfectly immaterial to him what the motion was, upon which he took the sense of the committee, provided that it met the points which his arguments went to enforce, and therefore as it might save the committee the trouble of two divisions, and accommodate the hon. member for the borough, he would, with the leave of the committee, withdraw the present motion, and move at once "for leave to bring in a bill to repeal the act of the last session, imposing certain duties on tobacco, subject to certain regulations of excise."

This being adjusted, the committee then divided. Yeas, 147; Noes, 191.

Debate on the Budget.] April 19. The House having resolved itself into a committee of Ways and Means, to which the several finance accounts were referred,

Mr. *Pitt* rose. He said, that after the various discussions which had taken place on the subject, and the difference of opinion which had been so often urged and insisted upon, respecting the finances of the country, he could now most cheerfully come forward and state the amount of the revenue, as it was no longer a question of conjecture, but a question of fact; and he had it in his power to prove to the committee, from authentic accounts on the table, that the revenues of the country exceeded the amount which he had formerly stated them at, and which had been controverted and denied by those who sat on the opposite side of the House. He said he would effect this by laying before them a plain, simple statement, which he trusted he should be able to bring within a moderate compass, and which could not but give satisfaction to all who heard him, and to the public at large. He should follow the ordinary course which he had pursued for some years, of stating the various articles of supply which had been voted, and afterwards beg leave to state the amount of the annual revenue. He proceeded accordingly to enumerate the articles of supply which had been voted in the present session, as follow:—

	£	£
Navy, 20,000 seamen	1,040,000	
Ordinary	703,276	
Extraordinary	490,360	
		2,233,636
Army, Ordinary services	1,517,616	
Extraordinaries	356,458	
		1,874,074
Ordnance		457,447
Civil establishments in the West Indies and North America		25,716
Payments to American loyalists		274,064
Expense of convicts upon the Thames, and provisions and tools sent to Botany Bay		90,597
Various miscellaneous services, viz. African forts, Scotch roads, repayments on addresses, &c. &c.		79,988
Deficiency of land and malt		430,000
Ditto of grants 1789, including interest on exchequer bills		231,517
Ditto of carriage duty		30,520
And a farther sum to be voted in the present session for American sufferers		60,000
Making a total of		5,787,449

And as it appeared that the debt

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of the navy had increased about 150,000*l.* in the last year, he should therefore propose to the House to vote a sum in diminution of the debt, to the amount of	200,000
Making the total Supply	5,987,449

To meet the above charges, he proposed the following Ways and Means, viz.

Land and malt taxes	£2,750,000
Actual surplus of the consolidated fund on the 5th of April last, which remained for the disposition of parliament, and therefore could not be disputed	621,151
Premium on the lottery, which was an increasing revenue	290,937
And the growing produce of the consolidated fund, after comparing the annual charge of the debt, &c. with the average produce of the taxes for the three last years	2,300,000
Which, with a sum of money which had been advanced for secret service, and had since been repaid to the civil list, amounting to	34,000
Will make the total amount of the Ways and Means	5,986,088

In stating the above account of ways and means, the committee could not accuse him of exaggerating the income of the country, as he had, in order to avoid such a charge, taken the average of the three last years, which in fact made the amount less by 500,000*l.* than the actual produce of the last year; and though the produce of the last year had been much increased by the exertions of government in calling in arrears of various taxes, he in fact had no reason to doubt but that the produce of the current year would considerably exceed the average of the three last. He mentioned the premium of the lottery, as a resource almost formerly lost; but which, he congratulated the country, had been gradually increasing, and respecting which he had been thought over sanguine, when he had said that he relied on it last year. At present, though the bargain was undoubtedly a good one for the public, it was not a bad one to the subscribers, as he understood tickets were selling on Saturday at an advance of 5*s.* a ticket. He specified among the articles to make up the sum which he meant to take from the consolidated fund, a certain balance of arrears, 100,000*l.*, an increase of the tobacco duty 100,000*l.*, arrears of assessed taxes, of which 600,000*l.* were out-standing 150,000*l.* He next adverted to the amount of the revenues of the three years, from which he meant to take his average, stating it in two different ways, viz. up to the 5th of January, in the first way, and up to the 5th of April in the second, as follows:—

1788 year ending Jan. 5,	£12,923,000
1789	13,007,000
1790	13,440,000
Average	13,123,000
Land and malt tax	2,600,000
	15,723,000

Ending the year on the 5th of April, he stated the amount of the three years and their average thus:—

1788	£13,163,000
1789	12,832,000
1790	13,745,000
Average	13,246,000
Land and malt	2,600,000
	£15,846,000

This being the state of the supply and ways and means contrasted, Mr. Pitt said, he would mention the extraordinary expenses which had been defrayed since the year 1786, with the assistance only of a loan of a single million, which had been borrowed last year. He recapitulated the unforeseen increase of the peace establishment from various causes, such as the aggravated extraordinaries of the navy, arising from large purchases of timber, and other stores; the extraordinaries of the army, owing to the unliquidated demands at the end of the war; the expense of the armament in 1787, the charge which the generosity of parliament had incurred on account of the loyalists; the debts of the Prince of Wales; all of which, with the reduction of the national debt, would be found to amount to six millions. He next specified the particulars of the reduction of the national debt since the year 1785, stating, that no less than 5,184,000*l.* capital of the 3 per cents. had been purchased, and the interest of so much capital taken off the hands of the public. He observed, also, that annuities, amounting to 200,000*l.*, had fallen in. He then proceeded to state the flourishing situation of the country, with respect to exports and imports, compared with former

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years of the greatest prosperity. This important increase of revenue, which had enabled the public thus to meet the various charges he had mentioned, he said, he regarded as permanent, and as originating in one of two causes; either in the suppression of smuggling, or the increase of the consumption of the manufactures of this country, which proved the increase of our wealth and population; or it might arise from the two causes combined together. He declared he saw no reason whatever, after the minutest investigation, to imagine that the present year's revenue, great as it was, would not be permanent, but on the contrary he entertained the most sanguine expectations of a still greater augmentation, from the increase of our commerce, our manufactures, our industry, our population, and our wealth. He said, the country at this moment was in a situation of prosperity far greater than at any period the most flourishing before the last war; and this he could incontestibly prove from a comparative view of the exports and imports of that period, compared with those of the present. The custom house books, he admitted, were inaccurate; but as they were not more so than at any other period, they would serve as the ground work of a comparison. The exports, from the ports of Great Britain alone, as valued by the custom house entries, for the last year, amounted to no less a sum than 18,513,000*l.*; of which the British manufactured goods exported amounted to 13,494,000*l.*; upon an average of the exports six years prior to the American war, which average he took on account of those years being the period in which our commerce flourished most, it appeared that the British manufactured goods exported, amounted to no more than 10,342,000*l.*, which proved the export of the last year to be above 3,000,000*l.* higher in favour of the British manufactures, than at the period to which he had alluded; and the present export of British goods amounted to 1,000,000*l.* value more than in 1787. The imports into the ports of Great Britain alone, for the last year, amounted to a higher sum than was ever before known, being valued at 17,828,000*l.* At first sight, this increase of import might appear disadvantageous, as it would seem to lessen the balance of trade in favour of the country: this the committee, however, would perceive, upon investigation, not to be the case, but that the increase of imports arose from circumstances which demonstrated the increase of the wealth and prosperity of the country; it arose from remittances of fortunes from the East and West Indies; from the increase of importations from Ireland, which gentlemen would recollect was a proof of the increasing prosperity of that valuable part of the empire; from the Greenland and South Wales fisheries, the imports from which were to be considered as adding to the stock of the country, being wealth poured in from the ocean; and these various increases were such as accounted for the increase of 3,000,000*l.* value on our imports, and which could not but afford a strong proof of the increase of our wealth, of our population, our industry, our strength, and our enterprise. Our navigation had increased in proportion to the increase of our commerce. Mr. Pitt stated the increase of our shipping and seamen by a comparison of the years 1773, and 1788, in the former of which there belonged to British ports 9,224 vessels, and 63,000 seamen; and in the latter, 11,085 vessels, and 83,000 seamen; showing an increase of seamen in 1788, above the number in 1773, of no less than one third. All this the committee must attribute not to casual, but to radical prosperity, and it must operate as a farther satisfaction to the committee, as it was an additional proof that the increase of our revenue arose from an increase of our commerce and national strength. He attributed these blessings, first to the goodness of providence in favouring us with the continuance of the blessings of peace, for which we had abundant reason to return our most fervent thanks; and next, he stated the secondary causes of this flattering prosperity to be the natural strength and vigour of the country, which exhibited the activity of the vital principle manifesting itself in every corner of the kingdom. This he ascribed solely to the national character and excellence of our constitution. It is that vital principle (he said) which results from a constitution superior to that of any other nation. It is to the national character operating under the liberties we enjoy from a constitution so congenial to popular freedom. It is to that peace and good order inseparably allied to an excellent constitution, that we must look for a continuance of these blessings. It is to the liberty of the country that we are to ascribe the resto-

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ration of our resources, their rapid increase, their wonderful progress, and their daily improvement beyond all former example. Next, and not the least important cause of our present happy situation was, the firmness manifested by that House in steadily persevering to face the danger and exigency of the times, to combat the difficulties and embarrassments in which they found the country involved at the end of the last war, and by a manly sacrifice of their own ease, and, in some respects, the ease of their constituents, to the paramount necessity of the state, to prove themselves the genuine representatives of the people: their steadiness in endeavouring to prevent frauds which sapped and undermined the public revenue; their activity and unremitted attention to the improvement, and their ardent zeal and successful efforts to restore the country to that share of its prosperity which it had lost, and to superadd so large an addition of revenue, would doubtless throw a lustre round the names of those who composed that House, and their memory would be endeared to posterity for having set the example of firmness in a moment when firmness was of such value to their country. He concluded by recommending a zealous and unremitting perseverance in that line of conduct, by which alone the advantages which they had obtained could be continued, and the blessings of peace maintained; and by which alone they could be enabled, when the day should come, to meet the perilous exigencies of war. Mr. Pitt then moved, "That towards making good the supply granted to his majesty, there be issued and applied the sum of 2,300,000*l.* out of the monies that shall arise of the surplus of the fund, called the consolidated fund."

Mr. *Sheridan* declared, that it would have given him great pleasure, if he could have reconciled it to himself to have continued wholly silent, without appearing either to disturb the flattering prospect which the right hon. gentleman had presented to the committee, or to depreciate the calculation on which he had claimed the confidence of the House; but the right hon. gentleman had himself declared, that it had proved the greatest glory of the House of Commons when they manifested the courage to face their situation, and to state the truth of it, however unpleasant the task. On this ground, he felt himself compelled to maintain every one of his former calculations; and while he agreed with the minister in his general principles, and in his statement of the growing prosperity of the country, completely to disagree with him in the single fact, that our income was equal, or nearly equal, to our expenditure. He had never spoken in a desponding tone of our resources; on the contrary, no man thought more highly of them, if judiciously applied. His opinion was founded precisely on the principle which the right hon. gentleman had dwelt so much on; and this was a sanguine confidence in the energies derived from our constitution, and the exertions which belonged to our national character. This the right hon. gentleman had well called the vital principle of our commercial prosperity; but it was one thing to call it so, and another to act on that conviction. He rejoiced to hear him admit the principle, but he should rejoice more when he saw him abstain from violating this vital principle, by arbitrary checks on the liberty, security, and industry of the subject. The right hon. gentleman had stated the amount, in a complicated manner; the usual forms and practice justified some part of the mode, which was intelligible to a very few. The method he should pursue was simply to compare the actual income with the actual expenditure; this he would do on the average of the four past years, and the present year. Mr. Sheridan then went through a variety of calculations from papers on the table, from which he contended that it was evident that the average annual income of the four last years was 15,723,000*l.*, and the annual expenditure was 17,140,104*l.* Excess of the expenditure including what was called the surplus million beyond the income of each year, two millions and some thousand pounds. He then stated the extra and temporary resources, by which this deficiency had been made up, and the actual addition to the unfunded debt, independent of the loan of last year, which had been contracted while we were pretending to reduce our funded debt. He then called on the committee to see how the account really stood for the present year. The chancellor of the exchequer had taken the best average he could, that of the three last years. This account made the average income 15,723,000*l.*, and this was the income which the right hon. gentleman calculated on for the present year. But the head of expenditure stood upon his own figures,

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and on demands not to be disputed, viz. navy, 2,200,000*l.*: army, 1,874,000*l.*: ordnance, 457,000*l.*: American loyalists, 274,000*l.*: miscellaneous expenses, 328,000*l.*: total 5,133,000*l.*: add to this, interest of debt, 9,275,000*l.*: paid for reduction of debt, 1,000,000*l.*: civil list, 900,000*l.*: interest on exchequer bills, 258,000*l.*: charge on aggregate fund, 64,000*l.*: the appropriated duties, 66,000*l.*: militia, 91,000*l.*: increase of navy debt this year, 150,000*l.*: to which add services of the year, 5,133,000*l.*: total of this year's expenditure at present demanded, 16,937,000*l.* But as there were many matters omitted, as paying for finishing Somerset House and Carleton House, he was confident that he understated the year's expenditure when he put it at seventeen millions. Here, then, the matter was brought to a narrow compass, the utmost income the minister pretended to reckon on, was 15,723,000*l.*, the difference, therefore, amounting to nearly 1,300,000*l.* was the actual deficiency between our income and expenditure.—Here he made his stand; if the right hon. gentleman's principle was right, that the truth ought to be known, here was a statement which admitted of no possible dispute; for every figure of it was taken from accounts upon the table. If it was answered, that we were not yet arrived at the peace establishment, and that the expenditure would be greatly reduced, to that he would say nothing, but would impress on the minds of the committee, the indispensable duty of looking to the performance of these promises; otherwise, after all the pleasing prospects which were offered to us, and the eloquent congratulations of that day, the unfortunate fact would be, that we were a government expending considerably more than a million beyond our income. Mr. Sheridan next mentioned the resource of the lottery, and regretted that it should have been so triumphantly announced to the committee. He contended that the ultimate and permanent loss to the community in the injury done to the industry and integrity of the lower class of people, outweighed infinitely, any temporary gain which the minister could derive from it. He opposed it, therefore, on the same principle, that he opposed the extension of the excise—because it was part of a system which looked to a momentary gain at the expense of those sound and superior principles which formed the true foundation of our prosperity. He looked not to the exchequer for the produce of a lottery, but to the Old Bailey; not to the temporary advantage to the state in a pecuniary point of view, but to the exports to Botany Bay. In conclusion, Mr. Sheridan repeated, that he felt a sincere satisfaction, at the general prospect of the country being in so flourishing a situation.

Mr. *Pitt* reminded the committee that the hon. gentleman desired them to compute the amount of the income and expenditure, by referring to a year remote from the present period, and which had not any analogy to it. By going back to that farther period, the year 1786, the hon. gentleman went back to a period when the French treaty, which had so considerably added to our commerce was not completed, and when many of the taxes had been so recently imposed, that we could not ascertain what would be the exact amount of their produce. There were other reasons which rendered the year 1786 peculiarly improper to be taken into the average. In the first place, the averages heretofore always taken, were for three years, and not for four; and next, the taking in that year made the average less to be judged from, than if it were excluded. Another objection to the hon. gentleman's comparison was, that he stated not the expenditure of the present moment, such as it actually was, but a temporary expenditure; and to that he had opposed not a permanent revenue, but a casual revenue. Mr. Pitt endeavoured to point out the fallacy of Mr. Sheridan's reasoning, and the erroneous foundation on which he had built his comparison, and then assigned various reasons to prove that all that part of his speech which tended to take from the credit of having paid off nearly six millions, was exposed to question, and even to confutation. The hon. gentleman, because he thought the lotterry a wrong measure, had chosen to throw aside 290,000*l.* which the public had actually obtained by a bargain already made; and as to his complaint, that the expenditure was not brought down to the reduced establishment promised in the report of 1786, the committee would recollect that the reduction was not expected to take place till 1791; and he had every reason to believe, that next year the establishment would not differ very materially from that stated in the report as expected to take place

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Mr. *Fox* observed, that although upon the present occasion his sentiments almost totally coincided with those of his hon. friend, and in some respects also with those of the chancellor of the exchequer, he must beg leave to mention points in which they certainly did not concur. Towards the latter part of the right hon. gentleman's speech, he seemed to be coming over a good deal to his hon. friend's argument, when he had complained that his hon. friend had compared a permanent income with a temporary expenditure. Was it unfair for a member of parliament, upon hearing a minister state a permanent income, to say, "I should like to know when we are to expect a reduction of the expenditure?" If that was not fair, he was at a loss to know what was the nature of their duty. Certainly the right hon. gentleman had given them a statement of what had afforded him as much pleasure, as he was persuaded it had afforded the rest of the committee, when he mentioned the growing prosperity of our commerce, and the gradual rise of our revenue. He had no doubt but that the right hon. gentleman was founded in stating that the prosperity of our income might be looked upon as permanent. We had, therefore, the actual amount of our present annual receipt; but till we knew the actual state of our permanent peace establishment and expenditure, we were not arrived at that happy period, when we could rest on fact and were no longer obliged to have recourse to conjecture. He should think it an unaccountable point of argument to say, on the mere view of the actual receipt on the one hand, and the temporary expenditure on the other, "now we are landed," and not to wish to have the permanent peace expenditure.—With regard to taking the average of the three and of the four years, he did not think that the right hon. gentleman had acted perfectly justifiably in leaving out the fourth year, unless he had likewise left out the next year, namely, the year 1787, because, if it were true that several commercial speculations were kept back in the year 1786, on account of the French treaty not being completed, it must be equally true that the income of the next year was proportionably increased by the consequent increase of the commerce of that year; he should therefore always think his hon. friend fair in taking the year 1786 into the average. He was, however, clear with the right hon. gentleman, that there was the best possible ground for believing that the prosperity of the country was likely to remain in a rational, increasing, arithmetical proportion, as long as the public tranquillity continued, and that it would not be the less so if other countries were at peace likewise. He attributed this, with the right hon. gentleman, to the constitution of the country, to the national character, and to the spirit of our commerce.—Mr. Fox took notice of what Mr. Pitt had said was due to that House for having firmly maintained its ground in meeting the exigencies of the state, and putting themselves, and what was still more important, their constituents, to considerable inconvenience. That credit, Mr. Fox observed, every man of every description in that House participated in; for whatever controversies and disputes had at different times taken place between political parties or factions, to the credit of that House, and to the credit of the country, no set of men had attempted to court popularity, by holding out to the public false hopes of lightening their burthens and withholding such additional taxes, as the nature and circumstances of the times had rendered indispensably necessary. He mentioned this, because many people seemed not to be aware that those with whom he acted had uniformly concurred with the other side of the House in looking our situation in the face, and manfully meeting the exigency of the moment, in order to retrieve the prosperity of the country. With regard to a lottery, in that House it could not be considered as a bargain concluded till it was voted; though he had no doubt that a lottery would be voted. But although he was aware that many gentlemen, on each side of the House, were strongly of opinion with his hon. friend, and he had great deference for his hon. friend's judgment, he could not help thinking that the cessation of a lottery would not cause the cessation of the different evils to which it was thought to give occasion. But when gentlemen counted the profits of a lottery as a part of the revenue which was growing, he could not concur with them; yet at the same time he was ready to confess, that for the last ten years he had been deceived, year after year in this particular, and if he were to enjoy the honour of a seat in that House ten years longer, he should still in all probability continue to be deceived; for he had not then, nor ever had,

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an idea, that persons could afford to give the public such an egregious profit, and nevertheless be able to derive a considerable profit from the lottery themselves. Most undoubtedly, the propensity to gambling in the public at large was to be deplored; but as long as it was evident that this spirit would be exercised to the same extent, whether there was a lottery or not, he thought it fair that the public should reap the advantage.—He declared that he was one of those who had always been sanguine on the subject of the income arising from the resources of the country); there was a spring and an exertion in freemen, which he who calculated ever so sanguinely could scarcely overrate. In conclusion, Mr. Fox expressed an inclination to know what grounds there were for expecting such a reduction of the establishments of the ensuing year, as would bring them closer to the reduction of the expenditure stated in the report of the committee of revenue in 1786.

Mr. *Pitt* admitted, that next year they should be bound to reduce the establishments conformably to the estimates in the report of 1786, or to show good reasons why they could not be so reduced. On that he was ready to close with the right hon. gentleman, acknowledging that he should hold it his duty, in the next session to do either the one or the other, although he repeated it, that he had no reason to believe, that there would be any material difference between the establishments and the estimate which had been alluded to. With regard to the manner of calculating the revenue upon the average of three years, the right hon. gentleman had said, that if the fourth year, the year 1786, was left out, the next year, the year 1787, ought to be left out likewise and only two years taken to make out the average. He was willing to meet the right hon. gentleman's idea; and, in that case, the average would prove still more favourable to him. The right hon. gentleman had remarked that there was much general merit to be given to the House for firmly persevering to restore the prosperity of the country; and that much credit was to be given to all parties for wishing to meet our situation fairly. Mr. Pitt admitted that it was true. He declared that he did not mean to insinuate any personal claim to peculiar merit; but he was sure that the candour and good sense of the right hon. gentleman would see how easy it was for those to recommend who had only to recommend; and how widely different was the situation of that party to whom was committed the painful task of laying duties on the public, and of carrying the lessons of the other side of the House into execution, when, almost uniformly, the means which they had suggested for that purpose, had been objected against, as more likely to counteract the principles in which they were all agreed, than to bring about their accomplishment. Mr. Pitt mentioned the treaty of Commerce with France, the computation tax, and various other measures against which he complained that opposition had made a powerful stand, and he protested that he rejoiced the more in being able to convince those who had differed from administration in these points, and thought that they would not prove successful, that they had met with such eminent success.

Mr. *Fox* begged leave to observe that the right hon. gentleman, although he had at first handsomely allowed, that all parties were equally entitled to the merit, if any were due, of having co-operated in endeavouring, by firmness, to restore the resources of the country, yet he could not close the subject without proving that the whole of his remarks concerning the difference between those who recommended, and those who, in pursuit of such recommendation, laid burthens on the people, was thrown away, and amounted to nothing more than a contradiction against his own argument. The right hon. gentleman well knew, that he had uniformly acted upon the principle which he stated; not merely while he was in a situation to recommend to others, but when he had been a minister himself, to propose measures, and he submitted to the right hon. gentleman how easy it had been for him, if he had chosen it, to have courted popularity at the end of the war, to have taken up any of those opinions, at that time floating on the minds of the public, and to have said, "this is the hour to alleviate the burthens of the people; in peace taxes ought to be taken off, there is no necessity for the public income equalling the expenditute. The funds may be taxed."—A doctrine by-the-bye, which, though talked of without doors, no man in that House had dared to mention or recommend.) He would do the right hon. gentleman the justice to say, that when he stood in a situation to recommend, he had no more resorted to the

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sort of conduct which he (Mr. Fox) had described, than those who had so long opposed him, on what they deemed good grounds. Many differences had not taken place on the subject of taxes, though in some few instances enumerated by his honourable friend in a late debate, those who acted with him had made an opposition. In obtaining a repeal of the shop-tax, he certainly had taken a considerable share, but he did not think he had done any mischief to the revenue in that instance. With respect to the French treaty being brought in, it was a little straining the subject, since certainly the French treaty was more a matter of commerce than of revenue; though some gentlemen had considered it merely as a matter of commerce, others merely as a matter of revenue, and others again in its twofold and complex nature, as a matter partly of commerce and partly of revenue. The commutation act might become the subject of future discussion, and therefore he should not enter into it, during the present debate; but he would defy the right hon. gentleman to prove that their conduct (for motives could not be proved) had ever warranted an imputation of their wishing to injure the revenue. For his part, he had often declared, and always should declare, were any measure to be proposed, respecting the principle of which they were agreed, but nevertheless the means of carrying which into effect appeared to him to be impolitic and absurd, that he thought them so; at the same time stating what he considered as means more practicable and less objectionable. The right hon. gentleman had often thought him less sanguine than he was, in respect to the possible reduction of the expenditure, but the right hon. gentleman had never heard him express a doubt of the resources of the country. He had, indeed, wished the expenditure to be stated as high as possible, and the receipt as moderately; and he never considered himself to blame for this, because he thought it better to meet the worst, than without certainty to anticipate the best.

Mr. *Sheridan* said, that the right hon. gentleman appeared to have reserved the mildness of a peace establishment for his right hon. friend (Mr. Fox), and to have hoarded his hostile spirit for him. He might as well, however, have shown, that "Grim-visaged war had smooth'd his wrinkled front," because the right hon. gentleman well knew, that when he felt himself on right grounds this spirit was not apt to weigh much with him. The point in contest between them was, whether they were likely to have a reduction of the expenditure next year, so as to provide for the surplus of a million? In the whole of the right hon. gentleman's system, there did not seem the spirit of making a reduction likely to bring the expenditure within the estimate of the committee of 1786. How was he to make it? Was the army to be reduced; or the ordnance prodigality to be curbed? High sounding sentences of prosperity were very pleasing to the ear; but in matters of account, the subject must be more closely examined; and he should continue to repeat that our income was not equal to our expenditure, till it was proved to be equal. With regard to lotteries he had, perhaps, had greater opportunity of knowing their bad consequences than most gentlemen. He was persuaded, if those consequences were as well understood by the committee, there could be but one opinion on the subject. Having brought in a plan for the regulation of the police of Westminster, which the right hon. gentleman would not reproach him with having abandoned (as it was abandoned by administration, and not by him) he had come at facts which proved that lotteries were most fatal in their consequences. Mr. Sheridan explained this declaration relative to the police of Westminster, by stating that a plan for regulating that police, had been framed by a barrister, and brought forward from lord Sydney's office; that he had cordially assisted in making it, and given every help in his power, though it was not to be known that he did so, nor was he to derive any credit from it; that he necessarily had many conferences with the Westminster justices, and they produced to him a pawnbroker, who said, that he never had such a number of things brought to him in the course of the year, as during the drawing of the lottery. That first, the men brought their tools, then the women their clothes, and one thing after another, till at length they brought even the little silver clasps out of their children's shoes; and at last such a picture of penury, distress, and despair was exhibited, as must make every man of the least feeling shudder. That picture justified him in asserting, that let the profit acquired from the lottery, be ever so great, he should

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reject it, as the base gain derived from a vile and pernicious plan of playing upon the worst passions of the poor and laborious rank of people.

After some farther conversation, the resolution was agreed to.

Debate in the Commons on the Slave Trade.] April 23. Mr. Wilberforce having moved that capt. Wilson do attend the committee on the Slave Trade,

Alderman *Newnham* said, he conceived, that farther evidence was unnecessary, and would occasion delay, by which those concerned in the present question had already suffered too much. Every thing had appeared to convince the House of the impracticability of an abolition of the slave trade; and that it was a measure which must either ruin our West India colonies, or drive them from their allegiance to this country. He was by no means prepared to give up this allegiance, and hoped that a manly and decisive vote would be passed, which might put an end to a business, pregnant with such dangerous consequences.

Mr. *Gascoyne* asked Mr. Wilberforce how many witnesses he intended to call? Whether he meant, by these witnesses, to impeach the veracity of the witnesses brought forward on the other side; and what space of time the examination of his witnesses would take up.

Mr. *Wilberforce* said, he did not mean to impeach the veracity of the witnesses in general. There was, indeed, one witness, the veracity of whose evidence he had impeached, and he had yet seen no reason to alter his opinion; but he begged the hon. gentleman would candidly distinguish between a suspicion entertained of the evidence of one man, and a suspicion of the evidence of a body of men. In answer to the first question, he must intreat the hon. gentleman's permission to ask another. How many witnesses did he intend to call? It was, indeed, a question which he could in no other manner answer. He would not presume to bound, by his limited speculation, the facts which the committee might think it necessary to establish; and on their opinion only, the number of witnesses to be called must depend. With regard to the third question, the time to be employed in the examination would certainly become measured by the information obtained.

Mr. *Gascoyne* said, he saw that delay was intended, and requested the House to consider the destructive consequences of delay in this business, more than in any other which had lately engaged the attention of parliament. Although it was his intention to vote for the motion, not dreading any inquiry, he was so convinced of the necessity of a speedy decision, that he should follow it by a motion for a call of the House on Monday three weeks, when the evidence obtained might be produced, and the general question of abolition be brought to a final issue.

Sir *George Howard* would second the motion for a call of the House, from a conviction that nothing could be more impolitic in this case than delay. He lamented that the inquiry had ever been brought forward, but being under discussion, the sooner it was determined on the better.

Mr. *Fox* spoke in favour of proceeding in the examination of evidence, and against restricting it in point of time, by fixing any particular day for the call of the House. It had been contended, that delay was the only object which the hon. mover could have in view by persisting in the examination. This assertion was altogether unfounded; and those who made it should recollect that they themselves had first caused the delay. When the hon. gentleman first brought forward the question, he declared himself ready to proceed immediately to the final discussion of it, without any other information than the materials then on the table. But the persons who opposed the abolition then insisted on an examination of witnesses. This was granted them, and it has now continued during the space of some years. During the last two years, it was said, the enthusiasm on the present question, both in and out of the House had greatly abated. If this was true, the friends of the slave trade had already gained an advantage by delay; and why then should they object to a continuance of it? Gentlemen had observed that the French, in the height of their present enthusiasm, had yet not been so mad as to abolish their slave trade. To this he would answer, that the great blessing of having a fixed and established government, such as ours, was to be able to look our abuses in the face, and correct them with deliberation and safety. It had also been remarked, that the hon. gentleman (Mr. Wilberforce) by bringing the question to an immediate discussion, should atone, as far as he could, for the mischief

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he had occasioned by ever bringing it forward. He was himself of an opinion far different, and thought that the hon. gentleman, by agitating this question, had atoned, in a great measure, for the general tenor of his political conduct.

Lord *Mulgrave* bore testimony to the character of Mr. Wilberforce, and to the purity of the motives which had induced him to bring forward his proposition. At the same time he thought it incumbent on the House to come to as speedy a decision as possible.

Lord *Penryhn* observed, that gentlemen who urged the humanity of the measure, ought to reflect that some consideration was due to those whose property was deeply affected by the proceedings which had taken place, and which, if protracted, might lead to the most fatal consequences. When he saw the infatuation almost bordering on frenzy, which had taken possession of the public mind without, and saw it also extended to some men of the most enlightened understanding within doors, he felt extreme concern that the latter, at least, did not think of the danger to be apprehended from its extending to the West Indies, where the disproportion of blacks and whites was so great; he trembled for the consequences; and if there was no other reason for an immediate decision, that consideration alone ought to have much weight with the House.

Mr. Secretary *Grenville* declared, that the part which Mr. Wilberforce had taken in this business, even if it went no farther, deserved the gratitude of his country; it had produced many salutary regulations, which had relieved the miseries of the slaves in their passage from Africa, and had rendered their situation in the West Indies much more tolerable than before.

Sir *William Young* conceived, that if the abolition of the slave trade were to take place immediately, it would ruin our colonies in the West Indies.

Mr. *Pitt* expressed a hope, as they were unanimous in thinking that the question ought to be fully argued, that there would not be any great difference of opinion as to the propriety of hearing farther evidence.

Mr. *Sheridan* was decidedly of opinion, that it was the duty of that House to determine on the general question in the course of this session. It would be to the last degree impolitic to leave it to the consideration of a new set of men, who might be ignorant of the information collected by the present parliament on this subject. He was convinced, that sufficient evidence would be collected in time to satisfy every member with regard to his vote on the general question of abolition. For his part, he required no farther information to convince him, that the power possessed by the West India merchant over the slave was such a power as no man ought to have over another.

Mr. *Pitt* declared, that he did not, in any degree, consider the question as one which ministers were pledged to support.

Sir *James Johnstone* thought that postponing the final decision was dangerous, and hoped that the business would not be protracted, like a chancery suit, for twenty or thirty years.

Mr. *Wilberforce* complained, that it had been insinuated that he felt that the opinions with which he had set out were shaken by the evidence which had been received, and wished for farther evidence to re-establish and confirm them. No inference could be more distant from truth. On the contrary, every assertion which he had made, with regard to the slave trade, had gained additional support the farther he proceeded in his inquiries. It was not to confirm his own opinions that he wished for additional evidence, but to clear up doubts which other gentlemen appeared to entertain. An hon. baronet had alluded to the length of suits in chancery; but, admitting the evil, could any worse mode of putting an end to it be adopted, than to decide after hearing one side of the question?

The motion was carried without a division. Mr. Gascoyne then moved for a call of the House upon the Monday se'nnight, which was negatived.

Debate in the Commons on the Isle of Man Bill.] April 23. On the order of the day for going into a committee upon the bill, "for appointing commissioners to inquire into the extent and value of certain rights, revenues, and possessions, in the Isle of Man,"

Mr. *Curwen* observed, that being perfectly convinced that the bill was so defective that it could not by any amendment which it might receive in the committee be rendered unobjectionable, he should oppose the motion. He then restated all the principal grounds of the bill; the alleged inadequacy of the price

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paid to the duke of Athol for his sovereignty of the Isle of Man, and the precipitancy with which the bargain had been concluded. In order to obviate these allegations, he stated, in detail, all the circumstances of the correspondence between the duke of Athol and the lords of the treasury, in 1764, mentioning the passing of what was ironically called the Mischief Bill in the beginning of 1765, and the ultimate bargain made and confirmed by the act of investment in 1765, under the authority of which the late duke received 70,000*l.* from government, for the purchase of his sovereignty of the island. He next went into a train of argument founded on calculation, to prove, that the duke derived only a certain income from the customs of the Isle of Man, none of which customs could be imposed but with the consent of the legislature of the island, consisting of the lord, the council, and the House of Keys. He recapitulated the produce of the customs arising from the various articles imported into the island, stating that the whole of the duties on the fair trade of the Isle of Man amounted to 983*l.*, but that since the island had been under the government of Great Britain, it was much improved in population, manufacture, and commerce. He next, mentioned the import of tobacco, and having added the amount of the duties on that article to the other sum, took notice that it had been observed, that the amount of these duties might have been increased by the House of Keys. It was true it might, but not without oppressing the country, deserting their duty, and abandoning and abusing their trust, which it was not likely they should do, because if any one manksman had been found so wanting, as to have lost all sight of character and honour, and to have acted in that manner, he must have quitted the country, and never have shown his face there again. Mr. Curwen said, there was one part of the bill which struck him forcibly; and that was, where the noble duke complained of the inadequacy of the compensation and the precipitancy with which the bargain had been conducted. This had never been before stated, although the noble duke had agitated a bill in 1780, when he had been five years in possession. It was surely strange, if the noble duke felt the grounds of those complaints, that it should be 25 years after the bargain had been finally closed, that the House first came to the knowledge of them. The receiver-general of the island had, some years since, attended at the bar of the House of Lords, and there stated, that there were no objections to the bargain.—Mr. Curwen then mentioned the application of certain military funds, which had formerly been payable towards the repair of the castle, but which afterwards (as it was the opinion of the law officers of the island, that as the whole produce of certain duties was applicable to the service of the public, they had a power to apply it as they thought proper) had been applied to the maintenance of the ports and harbours. Had such a bill as the present at any time passed, he should have been extremely sorry, as he should have thought that the House gave delegations to others, to do that, which it was their duty to do themselves. If the noble duke expected the bill to pass, he should, in the first instance, have given them reasons why the bill ought to pass; whereas, instead of any one proof of the necessity for its passing, he saw nothing but allegations. Mr. Curwen alluded to the duke's letter, wherein he declared that he was contented with the sum of 70,000*l.* to which an addition of 2000*l.* a year was afterwards made. If an inquiry were instituted, how was the expense which it would occasion to be paid? He saw no sort of provision for it in the bill, and he knew that the inhabitants had not funds to answer it, nor even to repair the gaol or prison of the island, in which there was but one room, wherein all the prisoners, of all sorts and descriptions, were put together, to the disgrace of this country. A bill had some time since been sent over for the royal assent; its purpose was to provide for these objects, and to enable the inhabitants to repay themselves the expense which they had been put to, when the former bills required their opposition, as well as to allow them the means of defending themselves against the present bill, if it should prove necessary.

Mr. *Powys* said, that he had carefully perused the various documents on the table, and the result was, that of all the bills which had been introduced into that House, this appeared to him to be the most extraordinary. The bill certainly had much merit from the address with which it was framed; yet the clauses were more ingenious than precise; not one of the various allegations which were

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scattered through the bill, as the grounds of the enacting clauses, seeming to him either founded in fact, or established by proof. Propriety, the bill said, and justice were its objects. The propriety was, that the facts were not true; and the justice so founded might easily be guessed at. In the preamble, it stated, that the true intent and meaning of the act of 1765 was to annihilate the fraudulent trade carried on in the Isle of Man. That assertion was not true; the bargain made with the minister was so, but the object of the act was "to authorize, confirm, and carry into effect, a bargain made," &c. One of the clauses stated, that sufficient time had not been given to inquire and ascertain, what the rights of the duke of Athol in the Isle of Man were, previous to the bargain. One would suppose, from such a statement, that the intended purchase of those rights was a matter quite new to the Athol family; whereas it was evident, that the business was begun in a preceding year. Nor was that all: former ministers had entertained thoughts of the purchase. Mr. Pelham, in particular, seemed desirous of bringing the sale to a conclusion. Let the House turn to the noble duke's letter, and see what he said upon the subject. The answer of the board of treasury was, "we must know the nature and value of the rights which the duke of Athol possesses in the Isle of Man" And the special reservation of particular things made by the noble duke, proved that he had inquired and did well know what they were, and the amount of their value. The purchase made by government undoubtedly went only to the sovereignty; none of the manerial rights were included; the inhabitants of the Isle of Man therefore, from the moment that the bargain was complete, stood in a new situation, and acquired an interest in every change in government. They were, in fact, parties to the present bill. Did they consent? And if they did, how had that consent been signified? This bill was the first instance of a bill of the sort which had not been submitted previously to the crown lawyers, and had their sanction in the House. He begged to know what accurate judgment could be formed at this time, more than the duke or duchess of Athol could have made at the moment. The claim now exhibited of taking back what government did not want, was something like this: suppose a gentleman were to purchase a manor in a sporting country, for the sake of sporting and for the preservation of game, and their being ground and quit rents on the manor, the seller of it, at twenty-five years distance, were to come to the purchaser, and say, "You bought my manor for the sake of sporting and the preservation of game, but there are ground and quit rents on the manor. You do not want them: give them back to me"—would such a conduct be endured between individual and individual? Mr. Powys wished to ask whether one of the parties still living, the duchess dowager of Athol, was to be set aside as to her claim of right? Were there to be no compensations to those who were, of all others, the first persons entitled to a compensation? The present bill was a bill of inquiry. Inquiry sounded well; but let gentlemen look to the object of inquiry, and the consequences which it would in all probability draw after it, and they would probably think it most prudent not to open the bargain at all.

Mr. *Dundas* said, his wish was, that the bill might receive the fullest investigation, and that any opposition which might be made to it should arise in that House fairly, and not issue from indirect and insidious attempts to establish prejudices grounded upon the grossest misrepresentation and falsehood. If the opposition against the bill within those walls could prove that the bill was what the reports without doors stated it to be, he should rest satisfied that the bill ought not to pass; but if he could convince the House, that the bill on the part of the noble duke was fair and honourable, and that it was founded in an undeniable appeal to the justice and liberality of that House, upon which it called for the fulfilment of their part of a bargain made 25 years since, but which never yet had been completed, he trusted that he need feel but little apprehension from the false impression which had been attempted to be spread abroad respecting it. He was not sorry for the prejudices, unjust as they were, because he had never known prejudice to start up against the rights of an individual which were not removed by a liberal and dispassionate inquiry into facts, and which did not in the end create an interest in his favour in the breasts of those who had been imposed on.—As the act of 1765 stood, the public most clearly had not yet fulfilled the terms of the bar-

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gain entered into with the duke of Athol at that time. In the first part of the bill, the duke of Athol, for the sum of 70,000*l.* agreed to give all his rights of sovereignty in the Isle of Man; and in the second, the public contracted that the noble duke should possess all the manerial rights as fully as he or his ancestors at any time had possessed them. The duke had long since complied with the condition on his side, and given up his sovereignty of the Isle of Man; the public had not fulfilled their engagements, since, by the ambiguity of the act, the noble duke had been kept out of many of his manerial rights, which were never intended to be withheld from him. Parliament was therefore bound in justice to inquire into the case, and to remove every ambiguity in their own transaction. He was glad the opinions of the attorney and solicitor general had been moved for, since they had proved, that the fact which he had just stated was founded, and that the public had not yet fulfilled their part of a bargain. When the opinion of the crown lawyers (those of lord Loughborough and Mr. Wallace) were given, Mr. Dundas said, they appeared to him rather to conceive it to be their duty to maintain and assert the rights of the Crown than to lean at all to the claim of an individual: at that time he had the good fortune to walk out, amidst a triumphant majority, with many of whom he was not in the habit of agreeing in politics, and it gave him some concern to see several of them take up the question as they did now; since, in 1780, they had said, "If the duke of Athol has been injured, and an unfair or hard bargain has been made with him, in the name of Heaven let it be set to rights; and at any rate, let justice be done to the duke." It was not without uneasiness that he perceived several of those gentlemen among the foremost to oppose the present bill, which stood upon the same principle with that of 1780, with this difference only, that the bill of 1780 stated specific claims, such as the herring custom, &c. to which this bill did not allude. He could not discover the opinion of sir Fletcher Norton (who was the attorney general who drew the bill, vesting the sovereignty in the Crown of Great Britain, and who, therefore, could best tell what was in the contemplation of government at the time) printed among the rest. He happened, however, to be in possession of that opinion, which he would read to the House. Mr. Dundas produced the opinion, and cited the answers given by sir Fletcher to each; in almost every one of the answers, sir Fletcher states, "that the right in the case alluded to, clearly belongs to the duke of Athol; but that from the change which has taken place in the government of the island, in consequence of the sovereignty being vested in the Crown, the duke cannot exercise this right; and as it is the intention of government to have another bill, this point must be provided for in that bill." Answers to this effect repeatedly occured in the course of the case, which proved that the bill of 1785 was a bill hastily drawn and precipitated through both Houses, in a state of known defectiveness, it being the object of government, at the time, to conclude and secure the measure; and at a future opportunity, by a bill, to arrange all secondary considerations. Sir Fletcher Norton gave the opinion which he had just quoted, in the year 1766, and being then attorney general, and the person who had drawn the act, the year before, he must clearly know what was the view of government. Mr. Dundas admitted that the opinion of the attorney general of the Isle of Man was a pretty round one against the duke of Athol; but if the report of lord Loughborough and Mr. Wallace were referred to, it would be seen in what light those gentlemen considered it. If upon examination it should turn out, that the inhabitants of the Isle of Man, from the situation into which the duke was thrown, from not having it in his power to protect his manerial rights, as before the sovereignty of the island was vested in the Crown, had obtained possession of what in fact belonged to the duke, would any man assert that the inhabitants ought not to be dispossessed, and the possession restored to the right owner? The duke of Athol had not at present, as he had before he was divested of the sovereignty, the same means of protecting his manerial rights. When he was sovereign of Man, all the inferior courts were under him, and the magistrates of the courts baron were the noble duke's stewards. The case was now widely different; and although the act of 1765 expressly restored to the noble duke all the manerial rights as fully and effectually as if no such act had ever passed, no means had been taken to carry the contract into effect, and the public ap-

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peared to see that contract with as much indifference as if it had never been bound to carry it into execution.—It had been said that the present matter was a job; if so, it was the most extraordinary job he ever heard of, being a job in which the jobber desires the House to probe his job to the bottom. As to the objection grounded on the idea, that they ought not to delegate their powers, but should confine the inquiry to their own bar, that was not practicable, because it was impossible to enter upon the inquiry, without going to the Isle of Man to ascertain the disputed rights, and examine records and titles; and that was wholly contrary to the practice of parliament. By referring the mere inquiry to commissioners, the House delegated none of its functions; they reserved to themselves the powers of adjustment and decision as to any measures which might hereafter be proposed, when the report came from the committee, and in fact only authorized a proceeding of a preparatory nature, which they could not execute themselves, to be executed by others. Mr. Dundas answered that part of Mr. Curwen's argument relative to the duke's income from the Isle of Man, and contended, that it might be estimated at 6,000*l.* a year, and with the increased taxes, it might possibly now produce 8000*l.* With regard to the compensation which was paid for the sovereignty of the island, the minister of that day (whom he never would accuse of injustice) was impressed with the idea, that it was necessary that the duke should part with it, having been given to understand, that 360,000*l.* was lost to the revenue of the country in consequence of a subject possessing the island. He mentioned a writer, who both knew and saw the determination of Mr. Grenville to have the Isle of Man, if parliament would vote it; and thence the proceedings, in 1764 and 1765, with the cause of which they were acquainted. The duke of Athol had reason to feel himself hurt, if parliament did not keep strict to its own bargain. It ought to be remembered, that the duke parted with sovereignty; he parted with a globe and sceptre, which no man would willingly relinquish; he parted also with all the insignia and functions of royalty, with the power of naming judges and appointing magistrates, and let them recollect the different treatment and conduct which had obtained in cases scarcely similar. When the heritable jurisdictions were put down in Scotland, because it was thought necessary to take away that feather in the cap of those who were possessed of them, what had been the conduct and the circumstances of the case? The heritable jurisdictions involved no property. The advantage they gave was merely to enable those who held them to oppress others, and to exercise a little lordliness and power; and yet on looking back, they would find that 10,000*l.* were given to some families, 15,000*l.* to others, and 25,000*l.* to others again; and all this as a compensation for nothing of intrinsic value: whereas, in the case of the Isle of Man, the duke of Athol sold an annual and increasing revenue, besides this sovereignty, which was certainly a dignity and a distinction which no man would willingly have laid down, for little more than double the sum. Indeed, so far was the present duke from being contented with the surrender of such rank and income, that he was ready, to-morrow, to pay back the 70,000*l.* and to give the amplest security which should be required, that he would adopt such regulations as should adapt themselves to the wishes of government, with a view to prevent illicit practices from being carried on in the island. The hon. gentleman had asked, who was to pay the expense of the commission which the bill then before the House went to authorise? If the House, upon consideration of all the circumstances of the case, really thought that the noble duke ought to pay it, he was sure he would consent to pay it. It had been remarked, that the duchess dowager of Athol did not countenance the present application; and that both she and her late husband were satisfied with the bargain of 1765. He would not suppose that the hon. gentleman, when he introduced the name of the duchess into that House, meant to throw a censure on the noble duke, or (what was still more cruel) to endeavour to widen a family misunderstanding; happily, however, the circumstance had produced an opposite effect, and he held in his hand a letter from the duchess dowager, in which she avowed that neither she, nor her dear husband, had ever ceased to complain of the hard measure which had been dealt out to them. Mr. Dundas read the letter to the House, in which, in the most explicit terms, the duchess stated her feelings upon the subject; that the bargain had been forced upon her; that neither

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the duke nor herself were aware of the value of what they had been called upon to sell; that they named 70,000*l.* because they understood from Lord Mansfield, their mutual friend, that no more would be given, if they asked it; and that even then they would not have signed the contract, if they had not been promised the pension of 2000*l.* a-year, as a part of the bargain. The letter also stated the progress of the proceeding, and mentioned, that had not the Mischief act, as it was called, passed, and thence materially injured the property and revenues of the island, the late duke could scarcely have been prevailed on to consent to sell what he valued more highly than any pecuniary consideration. Mr. Dundas again urged the injustice done to the present duke, by making an annuity any part of the compensation for an entailed estate, since the heir was thereby deprived of his share of the compensation which robbed him of his birthright. It was stipulated by government to allow the duke and duchess dowager a pension of 2000*l.* sterling, on their joint lives; but by some mistake it had been paid in Irish. With regard to the commission authorised by the present bill, Mr. Dundas declared that the duke did not know who were to be the commissioners; that he wished for nothing but justice; and justice, in every case, that House was not only bound to give to all who appealed to them for it, but ready, for their own honour, to hold out at all times where the claim was clear. In the present instance, the claim went still farther; it was a claim on their liberality; because, undoubtedly, if it were insisted on, the bargain was a bargain, and the letter of the bond said so; but that House, he was sure, would not act upon such iron principles.

Mr. *M. Montagu* contended, that the duke of Athol had not stated his claims in a manner sufficiently distinct, to warrant the House in the delegation of their powers to others; a proceeding which the House ought never to adopt but in cases of urgent pressure; and, for his own part in that stated by the noble duke, he could not discover any ground of necessity, justice, or convenience. It might be said, that this was only an inquiry;—true; but the mode of it was extremely important, and ought to alarm the House and make them cautious how they countenanced a proceeding which established a precedent big with fatal consequences.

Mr. *Burke* remarked, that the right hon. gentleman who brought in the bill had taken great pains to prove that this was not a job. It was difficult to say whether it was or was not; but perhaps a definition of a job might somewhat help them to judge: a job, generally speaking, he took to be a pecuniary application for a private purpose, under a pretext of public advantage. Certainly, definitions were dangerous, and legal definitions most dangerous of all. He could not decide upon men's intentions; he could only speak of the outward and visible signs, and by those guess at the inward spirit. If, however, it was a naked and undisguised job, a direct application for a sum of money for the noble duke, he had much rather give his vote for it, than for a measure coming in that concealed and guarded form, the outworks of which were fraught with danger, and shook a hundred principles of law, every one of which ought to be held inviolably sacred. On the present occasion, the House had listened—not, he believed, without the utmost astonishment—to claims from the noble duke, perfectly novel to their ears, and never before noticed in the treaty with government; and these were the crown, the sceptre, the globe, and all the apparatus of royal dignity. That House, therefore, ought to remember that they had a sovereign to deal with, and they ought to treat him with due respect, since even the lordly pride of the highland chieftain sunk, and became little in comparison with royalty. The noble duke, proud of his sovereign claims, was ready to throw the 70,000 British guineas in our faces, and say, "Take your dirty money back, and give me my crown again; my regal dignity is beyond all price." Mr. Burke observed, that if the present proposition were to be received, it would become difficult to determine whether the next noble duke might not present himself before that House, and say to them, "The pecuniary compensation which you gave my predecessor may do for the revenue, but not for the dignity: I will never allow you to keep back my crown and sceptre, for which no money can compensate." There was a *pretium affectionis* which defied estimation, and therefore to attempt to bid up to it was downright madness. Mr. Burke argued against suffering parties to come to that House, after exchanges had been fairly made, and complain of their situation.

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Suppose the public were to say, "We have given you 70,000*l.* in sterling money for your empty pageantry. Take back your mimic crown, your mock sceptre, and your painted globe, and return us the sterling money;" would not every man shudder at such a monstrous act of injustice? The right hon. gentleman had said, "It is your faith I demand, you have not fulfilled your bargain, your honour is bankrupt; show me the positive engagement." But such reasoning in a case like that of the noble duke was absurd and preposterous in a degree. Mr. Burke next combated that part of Mr. Dundas's argument upon the act of 1765, denying that the House by the reservation of rights had engaged itself to preserve them. He laid a stress on the distinction between the meaning of the words "reserve" and "preserve," and enlarged on the idea, which appeared to be entertained by the duke of Athol, that the inhabitants were, one and all, to be debarred from having any game, as the noble duke, from his manerial rights, claimed all the grouse and partridges on the island for his own table. In one construction, the game laws were the most odious part of our own statutary code; but there were certain considerations annexed to them, such as the liking of their country, which they created in gentlemen's minds, and other circumstances which softened down their asperity, and reconciled him, and those who gave themselves time to reflect upon the subject, to their being adhered to and enforced. Mr. Burke answered that part of Mr. Dundas's speech, in which he had assigned as a reason why the duke of Athol's manerial rights were not so well protected as before he parted with the sovereignty of the island, when he was king of Man, and the judges and the magistrates were appointed by him, by asserting that the noble duke had declared that he could not recover his claims, because he had not the right of nominating the judges. No man should be a judge in his own cause. The noble duke forgot that he had sold his kingdom when he inferred that his majesty's judges were not proper authorities to try his claims. Mr. Burke enlarged on this idea, and at length mentioned the situation of the inhabitants of the Isle of Man, who had been lately emancipated from the feudal laws. After recommending the House to examine and see if there was a remnant of feudality in the island, and to reflect upon the hardships of again introducing it and subjecting the manksmen, after so many years liberty and freedom, to the yoke of oppression and tyranny, the noble duke, Mr. Burke affirmed, he well knew was too mild and too generous to act harshly by any persons under him; but a man could not be mild and generous by deputy, and he wished not to have any man's happiness dependant upon the humanity of others. They would surrender more than the three legs of man were worth, if they let loose the noble duke's steward on the unfortunate inhabitants of the island. Mr. Burke resisted the idea, that when the bargain was made in 1765, there remained any unforeseen and undefined rights; and said, that if the House thought the late duke was a fool, and an advantage had been taken of his weakness, they paid no compliment to the honour and justice of the English parliament

Sir *Benjamin Hammet* thought the compensation by no means adequate. He pointed out the pension of 2000*l.*, which dying with the duke and duchess, was a circumstance which the present duke had, in his idea, good reason to complain of. The House had acted liberally in the case of the Derwentwater estate, and he hoped they would do so by the duke of Athol.

Mr. *Windham* felt himself compelled to break silence, if it were only to make a protest against the extraordinary doctrines by which the bill was supported. He was, he said, the first person to take notice of the bill, when introduced; but in doing so, he had only attempted to call the attention of the House to the bill, being at the time ignorant of the nature and grounds of it, as he was ignorant of the parties who were interested in it, one way or the other. Since that time, he had taken some pains to make himself master of the subject by inquiring into all the relative facts and circumstances to be collected from the evidence on the table, and from the journals of the House; and the result of that inquiry had given him a complete conviction, that such was the odour of the measure, that they must have strong nerves who were not ready to faint at the fragrance of it.—Mr. Windham reasoned upon the interest of a public and of an individual comparatively, in order to controvert the argument, that the individual being the weakest of the two, had a claim of equity frequently where he did not possess a

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claim of strict right. Generally speaking, he admitted that the force of the public was much greater than the force of an individual; but there were circumstances which might not only place the individual on a par with the public, but even place him on vantage ground, and that in a great measure depended upon the hands in which the management of the public interest was placed. Public rights, he maintained, were as sacred as those of an individual, and ought to be as firmly upheld. Supposing that the public, trusting merely to its superior force, after having made a bargain with an individual, were to come and say, "This bargain is a bad one for us; we meant to buy more than we find you possessed; and, whether you please or not, we will open the bargain, and make you refund so much of it, as we find to be more than the value of what you had to deliver over to us;" how in that case, would individuals like their own situation? The case of the duke of Athol, had been stated to be that of a compulsion; but it had not been proved; and it had been said, that the distinction of sovereignty was one that the noble duke would not part with. Why, then, did the noble duke part from it last? The reason assigned was, that Mr. Grenville passed an act to prevent illicit practices detrimental to the revenue being continued to be carried on in the Isle of Man. The noble duke says, "You have taken the revenue, and left me a barren sceptre; since you have taken best part of what belonged to me, I will sell you the remainder," and then names his own price for it. The noble duke had consulted lord Mansfield what price he should ask; and he certainly could not have expected to obtain better advice any where. In making the bargain the noble duke had not specified the articles, that they might know the nature and value of each, but had sold them in their indefinite mass, declaring only that he had sold the seignories, and all that belonged to them, meaning to reserve the manerial rights. He afterwards applies for some mark of favour and distinction, and the noble lord then in office gives him a pension of 2000*l.* a-year. Such was the nature of the bargain, which proved that the noble duke had received an ample compensation for what he sold, and that named by himself. The opinion of sir Fletcher Norton had been produced; a common lawyer's opinion on partial questions put to him; And that was opposed to the opinions of the attorney and solicitor-general of the island, who, after full deliberation, and a perfect knowledge of all the circumstances of the case, state that they know of no injury done to any of the rights of the duke of Athol, and that if any were done, the courts of the island were fully open for redress. Mr. Windham insisted upon it, that on scarcely any ground ought a bargain between the public and an individual to be opened. If a precedent were once set of the sort, it would become impossible to know when bargains of the description in ques-question could be finally closed. If ever a bargain between the public and an individual was opened, a very strong case indeed ought to be made out. The present petitioners had made out no case at all, nor produced any proof, but had rested merely on assertion and unestablished allegation. With regard to appointing commissioners, there was no sufficient reason shown for putting the matter out of their own hands; the rule ought to be, that all business of that sort should receive a hearing in a full House. The right hon. gentleman had told them that day, that the inquiry could not proceed without the commissioners going to the Isle of Man, to examine records. That was the only plausible reason that had ever been assigned for appointing commissioners without doors; but the noble duke had stated no such a reason in his petition, nor was there a word like it to be found in either of the former bills. It behoved the House to consider, that the inhabitants of the Isle of Man had a claim upon their faith. They who had placed the island in such a state as might have induced many to settle in it, were bound to protect those who had so settled there on the faith of parliament. Mr. Windham entered into a discussion of the nature of the feudal system and the difference of the continuance of such a system where it had long existed, and the placing people again under a feudal system, who had been for 25 years emancipated from it. Let the House consider what the feudal right was, when they withheld from it the feudal attachment. He adverted to what had fallen from Mr. Grenville on a former day, not doubting but the right hon. gentleman would rise and speak again if any gentleman should contend that the bargain made with the duke in 1765 had been unjust, or precipitate, or compulsa-

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tory: at the same time, he was persuaded, that if it had been so, the right hon. gentleman would not defend it, merely because it had been the work of a person so nearly related to himself. The honour of those in the existing government would not, he trusted, suffer them to countenance a job, or a sacrifice of public interests to those of an individual who happened to be able, through his influence with them, to procure their assistance, in his attempt to have the bargain which he had made revised.

Mr. Secretary *Grenville* observed, that although it might naturally be expected, that from the particular manner in which the hon. gentleman had alluded to what he had said on a former day, he should wish to say a few words; yet he should not have felt it of half the importance for him to have risen on that account, as on account of what the hon. gentleman had intimated towards the close of his speech, feeling himself as unwilling as the hon. gentleman to give his consent to any thing that deserved the name of a job. The great difference between a claim of right and the asking a favour was, that in the former case, the person having a right to prefer, always came fairly forward and demanded an inquiry into his claim; whereas, the person asking a favour, asked in the first instance for what he wanted, carefully avoiding all inquiry. The present case, was, therefore, clearly a claim of right, because it carried its characteristic with it. The hon. gentleman had stated, that it would be by no means, right or fair to the public to open a bargain which had once been made between the public and an individual. There were, however, many cases in which such bargains had been opened, and that on the ground on which the bargain with the noble duke was desired to be opened—for the sake of doing justice to the individual with whom the bargain had been made. That being the undoubted fact, all that the hon. gentleman had said was done away. The whole of the question then was, was this such a case as rendered it necessary that the bargain should be opened? The hon. gentleman had supposed the reverse of the present case, and asked what situations individuals would find themselves in, if the public should insist on opening bargains, which they had made with them, for the sake of revising them, and obtaining back again, what they had paid too much? The hon. gentleman seemed not to be aware that there was a small difference in the two cases; and it was this; in the present case, the individual applied to the public, with whom he had made the bargain; and if it were opened, it would be opened with the consent of both parties. In the other case, if the public opened the bargain on their part, it would be a mere exercise of the strong hand and power of parliament, opposed to the weakness and actual inability to resist on the part of the individual. In the present case, the public had acted in two capacities, as an individual, and as a legislator; having, therefore, an evident advantage, it was bound in justice to listen to the claim of an individual, who stated that the public had not made good that part of the bargain, which it engaged to perform. The hon. gentleman began one division of his argument with inquiring whether the noble duke had or had not received an ample compensation, and whether he had any ground of complaint of injustice having been done him in the mode of making the bargain? In that part of his speech the hon. gentleman had referred to a former statement of his (Mr. Grenville's) as entirely doing away that ground of complaint. He thought it necessary to repeat what he had, on a former day, on this head asserted, in order to remove an impression which had gone abroad. If he thought there was any injustice in a bargain concluded on the part of the public by a person to whom he was nearly related, he certainly would not, as the hon. gentleman had done him the justice to suppose, defend it out of the respect which he owed to that person. He should be sorry, if any gentleman came forward to defend injustice from respect to his memory. He should always think that he best showed his respect to that person's memory by imitating his conduct, which was founded in equity and justice. For the information of the House, he would state the particulars which led to, and had characterized the bargain with the late duke of Athol. It had been declared in 1764 to Mr. Grenville, then in administration, that no less than 160,000*l.* of revenue was annually lost to the public by the illicit traffic carried on in the Isle of Man; it became therefore, a desirable object for government to obtain the sovereignty of that island. Mr. Grenville had wished to effect the object in the least offensive way to

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the duke of Athol, namely, by a treaty for the purchase of the sovereignty of the island; and thence the letters had passed which then lay on the table. But the duke of Athol was very unwilling to treat; the correspondence ceased, and a delay of seven or eight months took place. During this interval, doubtless the noble duke was inquiring into his rights, but at the meeting of parliament, in January, 1765, Mr. Grenville, concluding that he might by such a measure obtain the chief end of his object, brought in a bill, called on both sides the Mischief Bill. That bill, most undoubtedly, went materially to cramp the exercise of the sovereignty of the island. The duke of Athol feeling it prudent to open the treaty again, it was opened accordingly, concluded soon afterwards, and confirmed by a bill which was passed the same session; and which was what had been in the course of the debate termed the Vesting act. He could farther state, what he knew to be the fact, that Mr. Grenville, when he concluded the bargain for the public, thought 70,000*l.* an ample compensation. If, however, on revising the bargain, it should appear that the public had taken more than it meant to purchase, and what was expressly reserved to the duke of Athol, it would surely become the liberality and the justice of that House, either to restore those rights, whatever they might be, to the noble duke, or make him an additional compensation; because it must be admitted, that in such a bargain, the public ought undoubtedly to give the individual a liberal compensation. If, therefore, it should turn out that the noble duke had suffered injustice, and that more had been taken by the public than the public really purchased, that House, he trusted, would give the noble duke a liberal compensation, since such a donation would confirm and not overturn the bargain. It had been ludicrously remarked, that the noble duke called upon the public to give him what it did not want; and the bargain had been compared to purchasing a manor, with a view to buy the right of hunting and shooting, and for the preservation of the game. In that case, it had been asked, if there were quit rents on the manor, were they to be resumed, after a number of years possession by the purchaser, by the original owner? That was by no means a case in point; but the case was this: if they bought a right to hunt and shoot, expressly so stated as the condition of the bargain, not meaning to pay for any fines upon the manor, the fines must be considered as the right of the owner, and he ought either to have them, or an additional compensation for them from the purchaser. In the present case, not only the spirit but the letter of the bargain was, that the duke, on giving up the sovereignty, should have the manerial rights reserved to him. He ought, therefore, to have all that this country stipulated to reserve him, and parliament was bound to take care to protect him in the enjoyment of the rights so reserved, and not to tell him, "we reserved them, it is true; but do you get them where you can."—He next came to the consideration of the interests of the inhabitants of the isle, who were, it must be confessed, in some degree, parties to the present bill; but they had no reason to feel any apprehension. That House was bound to protect them in their rights. Whatever measures might be proposed, he, for one, would never give his vote in favour of them, if they overlooked the rights of the inhabitants of the Isle of Man. Let the House do justice to all, and either leave to the noble duke what they have not purchased, or, if it should appear that any right belonged to him without injury to the inhabitants, let them make the noble duke an ample compensation.

Mr. *Grey* expressed his concern at discovering, that the right hon. gentleman had so far deviated into misrepresentation as to have charged his hon. friend (Mr. Windham) with having asserted, that bargains between the public and an individual ought in no case to be opened. The tenor of his right hon. friend's argument went to prove, that there ought to be a strong case made out before the House consented to open a bargain of that nature; and that there had not been a case sufficiently strong made out in the present instance. For himself, he was against the inquiry; he believed that no measure liable to such strong objections had ever been proposed. With regard to the grounds on which the bargain was desired to be opened, the first was, that the compensation was inadequate; but that the hon. gentleman had disclaimed and repelled. When he heard it stated, that the bargain was by compulsion, and saw, by the documents on the table, that the noble duke himself proposed the

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price, whatever his intention might be, he could not help thinking such an argument absurd and idle. He alluded to the words of one of the counsel, and declared himself particularly pleased when he had heard the learned gentleman assert, that the noble duke might be prosecuted for any offence against the laws committed by him in the Isle of Man, although the venue could not be laid in any particular country; and added, "that the arm of parliament was strong, and meant to reach such crimes as were not defined by positive laws." Mr. Grey took notice of Mr. Dundas's mode of estimating the duke of Athol's loss of income derived from the isle by mentioning the present increase of duties, and the money which he might have prevailed on the House of Keys to give by taxing themselves for his benefit, and turned both into ridicule, terming them two modest grounds of argument. He contended that the duke's influence over the House of Keys, when he held the sovereignty of the island, had never produced the effect which was now stated to belong to it; and he cited different periods of history, to prove that the duties had rarely indeed been altered; contending that there was no probability that they would have been much altered of late years. He asked whether it was likely that the duke should have so much influence over the House of Keys as to oblige them to part with their money, without their receiving some adequate advantage? He adverted to the 2,000*l.* a year pension, and declared, that if he could consider it as a part of a compensation for an entailed right, he should think that the present duke had reason to complain; yet the duke of Athol's own letter proved, that it was no part of the compensation, but a personal compliment to him, to which his son could fairly have no claim. It had been observed by the right hon. gentleman, that the material ground on which the inquiry should be instituted was, the separation of the manerial rights from the rights of sovereignty, whence injuries to the noble duke ensued. That fact, however, was merely the noble duke's allegation, and was like all the rest of the case—allegation without proof. The noble duke of Athol contended that his manerial rights were not protected, because the judges were not his servants. This was a most unaccountable reason. His hon. friend had remarked, that parliament meant to reserve and not to preserve; for that the laws of the island, like the laws of any other country, would preserve property of every description. With regard to the want of what was called sitting quests, he must assert, that it was the noble duke's own fault, if there was no such tribunal at this day; an act of the House of Keys having laid for a considerable time ready for the King's consent, which, from some unknown reason or other, the noble duke had proved hitherto successful enough to prevent taking place. As soon as the act passed, the remedy for all complaints respecting manerial rights would approach, and it would be short, summary, competent, and safe. Notwithstanding which, they were called on to decide whether they should not shake a public contract of 25 years standing solely upon a bare allegation. But might not even an inquiry harass the inhabitants of the Island of Man? If the House subjected the inhabitants of the Isle of Man to the hardships of an inquiry, had not they a greater right to complain than the noble duke? Mr. Grey took notice of Mr. Burke's definition of a job, which was, in his opinion, just; but he would add a single circumstance which completed the definition, and that was, where the party, making a pecuniary application for a private purpose under a pretext of public advantage, desired that no person's rights but his own might be considered.

Mr. *Bastard* wished to know when, if the bill passed, the bargains between the public and the individual were to cease? The bill contained a clause to open every right and deed; and to this clause the noble duke of Athol had assented. Mr. Bastard remarked that some specific ground for such an application ought to have been stated, and proved before the House could be expected to receive it; and no such specific ground having been proved, he should certainly vote against the Speaker's leaving the chair.

Sir *Watkin Lewes* considered the debate as irregular, because they were anticipating the result of the inquiry proposed, under the incompetency to decide. When he heard the petition from the House of Keys read, and the allegations which it contained, together with other representations, he was disposed to vote against the bill; but when he found that the noble duke had disclaimed every idea of resuming the sovereignty, and that the evidence failed in support of the allega-

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tions, he had changed his opinion. He conceived that the measure now proposed, ought to have been adopted in the first instance; an inquiry should have preceded the compensation without which they did not know whether the compensation was equivalent to the benefit surrendered. The noble duke had given up sovereign rights, together with the customs on the consumption of the island, which now produced nearly 5,000*l.* annually; and it appeared from the report of the commissioners of the excise and customs, that this kingdom had annually benefited about 350,000*l.*, per ann. It was stated that the Isle of Man was prejudicial to Ireland, as well as to this country, for which reason 2,000*l.*, per annum was given on the Irish establishment, as part of the compensation, which ceased with the present duchess dowager, though it was part of the property entailed on the present duke. Was this justice to the present duke? He therefore conceived that the noble duke had a claim upon the equity and liberality of the House. If the public was benefited, the individual ought not to be injured. But why oppose the inquiry? If gentlemen thought that the noble duke had received a fair compensation, he had no farther claim: but the presumption was otherwise; for the noble duke challenged the inquiry, and it would prove a reflection on the justice of that House to deny it to him. If they were dissatisfied with the report of the commissioners, they were not concluded by their report, but had a right to call on other witnesses.

Mr. *Courtenay* read a short extract from the bill of 1780, to mark the feudal spirit which actuated the noble duke throughout his various proceedings. He then read the game clause of the bill: which enacted the rights of the lords of manors to enter the fields, and even houses of persons suspected of having guns and dogs at all hours and seasons.

The House divided:

Tellers.

Yeas	Colonel Phipps Mr. Robert Smith	90
Noes	Mr. Curwen Mr. M. A. Taylor	85

So it was resolved in the affirmative.

May 4. On the motion for going into a committee on the bill,

Mr. *Pitt* said, that notwithstanding his full conviction of the propriety and even necessity of proceeding with such a measure, yet, after the unfavourable impression, which had gained ground upon the subject, he should not think it prudent to push the bill farther at present, and therefore he meant to move, that it be committed for that day three months. After this intimation, it would be idle in him to go into any length of discussion upon the subject; it was due, however, to the duke of Athol that he should declare, that notwithstanding the impression which had evidently been made on the minds of gentlemen respecting his claim, he was sincerely of the opinion respecting it, which he had before delivered to the House, and he would shortly state the principles on which that opinion was grounded. He thought from motives of justice, that the noble duke was entitled to an inquiry into the facts, whether the bargain made with his ancestors was a fair one or not, and whether the compensation had been commensurate with the value of the rights and property at that time alienated from the noble family to the public. If upon examination it should appear that the noble duke had not received a full compensation, he thought it was due from the legislature, for its own honour and credit, that a full compensation should be made to his family; but, at the same time exclusive of the distant period at which the transaction took place, he was ready to admit that before parliament ought to listen to the idea of a farther compensation, the noble duke was bound to make it appear in the most unanswerable manner, that the compensation given, was not adequate; and even then, the noble duke's claim would not be a claim of right, indeed, scarcely a claim of justice; but, undoubtedly, a claim on the liberality of parliament. Another point was, that if in the haste of concluding the bargain, certain rights inherent in the duke of Athol, and in no wise connected with the object which government had in view when they determined on the purchase, had been transferred to the public, no lapse of time ought, in his mind, to bar the duke's claim to a re-possession of those rights. A third, consideration, and a very material one, was, the inconvenience the inhabitants of the Isle of Man themselves laboured under, in consequence of certain rights remaining in an unsettled and disputed state. That circumstance evidently called for examination; but if upon in-

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quiry, it should be found that some of the rights in question clearly belonged to the duke, yet nevertheless were, from their nature, such, that they could not be restored to him without subjecting the inhabitants of the island to oppression and inconvenience, he should be of opinion, that satisfaction ought to be made to the noble duke in lieu of a restoration of those rights; because, possessing, as the British legislature did, the sovereignty of the island, government was bound to extend their protection to the inhabitants in as ample a manner as it was extended to any other description of British subjects. Mr. Pitt concluded with moving, "That the bill be committed for that day three months."

The motion was agreed to.

Lottery Bill.] April 29. Mr. *Rose* brought up the new Lottery Bill. He stated to the House, that the only new clause in it, was one to subject the printers of newspapers to a penalty of 50*l.* for each offence, in case they advertised any illegal shares. The bill having been read a first time,

Mr. *Sheridan* thought the clause was a most extraordinary one, nor could he possibly conjecture how it was to be carried into effect. He supposed that it provided proper counsel for the printers to consult, as to what was or what was not a legal share, or perhaps itself gave a definition of that important point; because, without either the one or the other, he did not see how printers could avoid incurring the penalty, although they might not mean to offend against the law, and clearly could have no more interest in advertising an illegal share, than a pamphlet which upon perusal turned out to be a libel, or any other matter in itself illegal; and it was well known that in such cases the subjecting the printer to a penalty was a principle equally novel and oppressive, and therefore one which materially concerned the liberty of the press. He proposed to have the clause printed.

Mr. *Rose* said, it never had been usual to print a single clause of any bill; and, in the present case, it was wholly unnecessary, as the clause in question was but short, and the hon. gentleman might at one reading make himself master of its contents.

Mr. *Sheridan* moved to have the whole bill printed.

Mr. *Pitt* observed, that it was altogether unusual to print such bills, nor could he see the smallest occasion for it.

Mr. *Fox* said, that on the present occasion he was one of those who agreed with the right hon. gentleman, inasmuch as he was a friend to lotteries, and thought them good means of raising a revenue; but lotteries had now become matters of very serious consideration, and therefore required to be particularly attended to. There were, undoubtedly, many gentlemen who differed from him upon the subject, and thought lotteries ought not to be suffered, because they were the means of creating a species of gambling among the lower orders of the people. In one point, however, they were all agreed; that it was necessary to have some new regulation respecting lotteries. He wished therefore to have the bill printed, that gentlemen might not only see how far the proposed clause could be considered as a useful regulation, but having the bill before them, might be enabled to suggest other regulations of still greater service.

Mr. *Martin* declared himself a decided enemy to lotteries, and said that no arguments of the quantum of revenue could reconcile his mind to them, being convinced that they were attended with most pernicious consequences to the morals and interests of the lower class of people, who could not resist the temptation to gambling. While the lottery was drawing it was scarcely possible to send out servants on an errand, without their stopping and risking their own money, perhaps their master's, in mischievous schemes of lottery speculation or insurance. He wished the bill to be printed.

Mr. *Sheridan* said, that the new clause might cramp and affect the press, but could not be considered as a regulation to prevent gambling.

The motion was negatived.

Debate in the Commons on the Tobacco Excise Bill.] The order of the day for receiving the report of the Tobacco Excise bill being read,

Mr. *Fox* expressed his intentions of moving that the bill be recommitted. He would fairly state, that his object in so doing would be afterwards to move, that it be an instruction to the committee, to receive a clause taking off the survey of the excise from the manufacture of snuff and tobacco, to which it was clearly inapplicable; and he would rest the proof

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on two facts; first, that from the operation of the air on the manufacture, the innocent might incur heavy penalties, and indeed could scarcely avoid it; secondly, that fraudulent persons might deceive without a probability of being detected by a revenue officer. It might, perhaps, be said, that such a clause was nothing more than again bringing before the House the same question which had already been decided. It was so, certainly, in one essential particular, inasmuch as taking off the survey would be to repeal the most important objects of the bill; but then it was to be considered, that the question would now come forward under very different circumstances from those under which it had lately been brought forward. The right hon. gentleman had thought, that those grievances which he had stated could be removed without withdrawing the survey of the excise. But that would, upon reflection, be found impossible. The right hon. gentleman had said that he would bring in a bill to explain and amend the tobacco bill. He had done so; and now that the bill had been examined, it was clear that the right hon. gentleman had failed in his experiments; so far from a bill to explain and amend, the right hon. gentleman's bill was no amendment at all. The case therefore stood differently from what it had done before, and justified him in moving "That the bill be re-committed."

Mr. *Pitt* observed, that with regard to the present bill not affording the manufacturers relief, that was an assertion which he must take the liberty of denying. By the present amendment, the table of credits, was so adapted to the staple, that there was no fear of an innocent man being subject to penalties on the one hand, nor to the frauds being committed on the other, which the right hon. gentleman had supposed to be practicable. With respect to the survey of the excise not being applicable to tobacco, they had the experience of a year in direct proof of the contrary, and therefore, having already obtained the original object of the bill, he could not consent to abandon it.

Mr. *Pulteney* said, that he had voted for the tobacco bill last year, because he considered it as a bill of experiment worth hazarding; but from the evidence which had been given to the House since, he was clearly of opinion, that the experiment was dangerous, and, if persisted in, might ultimately do more harm to the revenue than in the interim it could do good. It had been supposed that our import of tobacco was sixteen millions of pounds, 16,000 hogsheads, and that before the tobacco act of last year passed, duty was paid for half of the quantity. That was, in his opinion, a great sum to obtain from an article, the duty of which was 1*s.* 3*d.* per pound, 500 per cent. In the article of tea not more duty than upon a fourth of the import could be obtained before the passing of the commutation act. One way of accounting for the difference was, that the smugglers of tobacco, importing only the raw material, were obliged to sell it in large quantities, and the manufacturers had the advantage of making it into snuff, &c. Mr. Pulteney assigned reasons why the smuggler could not cope with the manufacturer heretofore, and why he thought he might hereafter. He said that 500 per cent. was such a profit, as would tempt the smuggler not to abandon so valuable a branch of his traffic. He admitted it would be some time before he could bring his schemes to bear, and to settle his arrangements: yet, there could be no doubt but that the smuggler would set himself to learn the art of manufacturing tobacco and snuff. The latter regulations, undoubtedly, had given a check to the smuggling of tobacco, and for a year or two might increase the revenue; but the raising of 130,000*l.* in six months was no proof that the measure was right. When the smuggler had learned the art of manufacturing tobacco, instead of the raw material, he would import it manufactured. There was as much ease in smuggling manufactured tobacco as tea. The one could be conveyed and concealed as easily as the other. Upon the whole, the House ought to proceed with caution, and not harass the subject with the unnecessary severity of the excise laws, and perhaps ultimately ruin an important branch of the revenue.

The Marquis of *Graham* should oppose the motion, because he thought the survey of the excise as applicable to tobacco as to various other articles, which had long been under the excise. Other persons had made out as good cases against the survey of excise as the tobacco manufacturers, and he would contend, that the manner of taking stock in other manufactures was full as difficult. He therefore, for one, would try by every means to raise a duty on a commodity which ought to be taxed highest: and if the result

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was, that so large a revenue could be raised from it as to afford an opportunity of alleviating the burthens of the people, he would do it not by taking off the excise from luxuries, but from the necessaries, in which the poor had always a greater interest than the rich. For these reasons, before he would consent to take the survey of the excise off the manufacture of tobacco and snuff, he should expect to see it withdrawn from soap, candles, and other articles, by the taxes upon which the poor were such considerable sufferers.

Mr. *Beaufoy* thought himself obliged to declare, that he could not vote for a recommitment of the bill on the grounds which the right hon. gentleman had stated; for except on the idea that other regulations would be established (and none which could be effectual had yet been proposed) it was evident, that to consent to a total extinction of that part of the law which applies the excise system to tobacco, would be to abandon 500,000*l.* per annum of the public revenue to the practices of the illicit trader; as the manufacturers themselves admitted that of the tobacco consumed in Britain, no less than one half escaped the payment of the duty. That no effectual system of collection had been offered as a substitute for that which the present motion is intended to abolish, was obvious to all who had heard the several debates upon the bill, and he feared it would equally be found that no such system can ever be devised; for exclusive of capitation taxes, a species of impost that in England is happily unknown, there are but four ways in which an inland revenue (he spoke not of customs) can be raised upon the people. The first is by an impost on the use of the articles on which the contribution is levied, and the existence of which in the hands of the owner cannot be easily concealed. Such are the taxes on land, houses, windows, horses, carriages, and a variety of other articles. But this mode of collecting a revenue is not applicable to tobacco, because the existence of the commodity in the hands of the consumer may be concealed with ease. The second mode of raising a revenue is that of an impost on the privilege of purchasing certain enumerated articles. Duties of this sort compose the revenue that is produced by stamps, and are never effectual to any extent; except in those instances in which the value of the commodity depends on the existence of the stamp. Thus, for example, they are perfectly effectual in the case of bills of exchange, on bonds and deeds, and other legal instruments; because without the stamp, the bill or deed is entirely useless; but in the case of gloves, of hats, and of perfumery, they are liable to constant evasion, and for the most part are actually evaded, as the commodity for every purpose of use, is as complete without, as with the impression of the stamp. Hence, it is evident, that the revenue from tobacco would derive but little assistance from the system of stamp regulations, because, like hats, and gloves, and perfumery, the tobacco would be as perfect without, as with the mark of its having paid the duty.—A third mode of raising a revenue is by a tax on the privilege of selling the commodity which is the subject of the impost. This class of duties constitutes the revenue from licences and is already applied to the article of tobacco; but never can be carried to any great extent, for it has always the inherent and incurable defect of not being proportioned to the value of the sale; a defect which renders it of course oppressive or inefficient. From this mode, therefore, no material aid in collecting a revenue from tobacco can ever be effected. —The fourth and only remaining plan for collecting an inland revenue, is that of levying the tax on the stock of the manufacturer, which is the very plan that is now the subject of debate, and for the reasons already assigned, appears to be the only one that has energy sufficient to counteract the frauds which prey upon the public income from tobacco, and annually consume in this one article, half a million of the treasures of the state.—It has indeed been said, that a reform in the custom-house establishment would supersede the necessity of applying the excise laws to the collection of the duties on tobacco; for that if the custom-house officers, who are employed to superintend the importation of this article were appointed by the commissioners of the customs without the interference of the treasury, as the excise officers are by the commissioners of the excise, they would be found as faithful to their trust, and as diligent in their duty, as the officers of the inland collection: but this idea is clearly founded in mistake; for the practical integrity of the excise officers is not owing to the mode of his appointment, but to the various checks which arise

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from the account of stock being taken in the first place by his colleagues, as well as by himself, and, in the next, by the superior officers, as a guard to the fidelity of both. Experience has accordingly shown, that where, from the impossibility of taking an account of stock, the application of these several checks cannot be accomplished, as in the case, for example, of excisemen stationed in ships as a guard upon the cargoes, whether of spirits or of India goods, the excise officers notwithstanding the mode of their appointment, are as inefficient and as corrupt as the worst officers of the customs. That they are so, is consequently a proof that the different character which they bear when employed in the inland collection is the consequence, not of the mode of their appointment (for that is the same as before), but of the various restraints which the nature of an account of stock so obviously affords.—But while from a full conviction that no other system but that of the excise will counteract the depredations which heretofore were hourly committed on the revenue from tobacco, Mr. Beaufoy strongly objected to the idea of repealing, without a fair and adequate trial, the act of the last session; yet he was equally anxious to declare, that on every principle of justice and of policy, the present bill ought in his judgment, to be amended. The amendments he wished were principally two: 1. In the regulations which impose a penalty and forfeiture in all cases of a greater increase of the stock of the manufacturer, than that which is allowed by the tables of the bill. 2. In the mode of judicial determination. He said that the evidence which had been given at the bar, had proved that the stock of the manufacturer was liable to receive, from the moisture of the air, an increase which exceeded the amount of legal augmentation, and they had also proved that the extra increase, though seized by the officer, had been always restored by the commissioners, on the oath of the party that the increase had not been fraudulent. Hence he contended that this restitution, which, as the law now stands, is granted as a boon from the commissioners, ought to belong to the subject as of right. His wish, therefore, was, that cases of increase should be divided into three classes. 1. That of an increase not exceeding the allowance marked in the tables of the act; and therefore, as at present, neither forfeitable nor seizable; for in this case there is no suspicion of fraud. 2. That of an increase exceeding the allowances marked in the tables, but not exceeding a farther limit to be assigned, all increases of this class should be seizable as at present; but should not be forfeitable, except on supposition that the party refuses to make oath that the augmentation arose from no illicit practice: for if he is able to give that proof of innocence, the increase ought to be restored to him, not as of grace, but as of legal right; not as a boon from the commissioners, but as a just restitution directed by the law; for in this case, though there be a suspicion of fraud, yet as the change of the atmosphere is still sufficient to explain the increase, the oath of the party ought to be deemed decisive, and neither penalty nor forfeiture ought to be incurred. 3. The third class of increases should consist of such as not only exceed the limit of the table, but that also which the second class assigns. Increases of this sort should be considered as implying from their magnitude, too strong a presumption of fraud to render the test of an oath a sufficient or wise expedient; and ought therefore to subject the accused to the ordeal of legal process and of judicial decision. Another and still more important alteration in the act, an alteration for which in other excise laws, Mr. Beaufoy said, he had often contended, was that of giving to the defendant an optional right of trial by his peers.—He declared his unwillingness to speak of the nature of his excise tribunal, of the manner in which informations are laid; of the strong inducements to desperate swearing; of the dependant situation of those who fill the judgment seat; or of the dreadful speed with which the trial succeeds the notice, and the execution follows the sentence. Hard, indeed, he observed, is the situation, and distressing the dilemma of a member of parliament who is anxious for his country; for he cannot but be sensible that if he does not succeed in his endeavours to prevail on the House to restore to the people their ancient (our ancestors would have said their unalienable) right to a trial by their peers, he hazards the inconvenience of exciting useless discontent. On the other hand, he cannot but equally feel, that to permit the right of trial by jury, the genuine strength of the constitution, to be wrested from the subject without protesting against the dangerous change, is such a dereliction of duty as

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no motive can excuse; nor is there a pretext for saying that excise seizures cannot, without danger to the revenue, be submitted to the decision of a jury, for to that tribunal at this very hour all seizures of vessels, though made by excisemen, are invariably referred. But if, notwithstanding this proof of its futility, the plea of hazard to the income of the state be still urged, let the trial by jury be given as an experiment for a limited time, and in one article alone. After so many experiments in favour of revenue, the representatives of the people will not be thought to have deserted their duty in venturing to indulge their constituents with one experiment in favour of the ancient laws and constitution of their country.

Mr. *Sheridan* observed, that the hon. gentleman had spoken with pathos on the trial by jury, and yet had concluded with saying, it was not his intention to vote for the recommitment, when he might move to introduce the very point he recommended. Whenever he heard of a trial by jury being applied to the excise of tobacco, or any other single article excised, he always suspected it was thrown out as a lure, and a decoy to attract attention, and draw the eyes of the House away from the main consideration. Professions of regard for that old-fashioned trial, could only be proved in an old-fashioned manner, not by words, but by deeds. The hon. gentleman had said, a great deal about trial by jury, and nevertheless declared, he would not vote for the recommitment. He would leave it to the House to judge of the sincerity of the hon. gentleman's professions, who contradicted them by his conduct. For his own part, he should never think any gentleman sincere, who did not oppose every extension of the excise laws, till the trial by jury was universally adopted in all cases of excise. If the hon. gentleman was sincere, he supposed that he would bring in a clause for a trial by jury at the third reading.

Alderman *Newnham* argued against the incompetency of the present bill, as to affording the manufacturers any effectual relief, declaring that nothing short of withdrawing the survey of the excise, and keeping the officer out of the house of the manufacturers, would enable them to preserve their valuable secrets, and carry on their manufacture with safety and success. He adverted to the cyder tax, which, he understood, had been opposed on the general principle that all extensions of the excise were unconstitutional, and not from any idea that those who drank cyder, ought not in fairness to pay to the revenue, as well as those who drank beer. He complained of the want of that general feeling which ought to prevail against all attempts to extend the excise laws. It was in consequence of that anti-constitutional apathy, that the minister was able succesfully to single out particular descriptions of men, and subject them, one after another, to the excise laws. They did not unite and stand on their defence against the extension of those laws, so much as their common interest and their duty to their constituents rendered it necessary. Hence, in the case of the late extension of the excise on wines, no other dealers joined in resisting the measure. In the present case, the gentlemen representing the cyder counties were perfectly indifferent. By-and-bye the turn of their constituents would come, and how could they expect him, a representative of the city of London, where porter was the principal drink to assist them?

Mr. *Martin* said, that no person detested smuggling more than he did, whether practised by tradesmen, gentlemen, or ladies. To defraud the public, was both a folly and a crime. The effect must necessarily fall upon all liable to taxes. He wished Mr. Beaufoy would propose a clause for introducing a trial by jury.

Sir *Watkin Lewes* said, that a noble lord had observed, that so far as the experiment had been tried, it had succeeded, and, therefore he wished to give it every possible trial. The noble lord would do well to recollect, that while he was trying the experiment, the manufacturer would be transferred into foreign countries; it would then be too late to repeal the bill; the manufacture would be in a great measure lost to this country, and the revenue injured. With respect to what had fallen from Mr. Beaufoy relative to the trial by jury, when he received the instructions of his constituents, the citizens of London, he had declared, that in compliance with that part of the instruction, relative to the depriving the subject of a right to the trial by jury, he would move for a clause to preserve that right, in case they did not succeed in procuring the repeal; but, he was informed by the manufacturers, that it would not afford them the relief they wished, although it was a very de-

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sirable object. Their complaint was, the being subjected to the excise survey, which laid them under such restrictions and penalties that they could not carry on their business, and would likewise tend to disclose the mysteries of their trade. For these reasons he did not move the clause in the committee, till the principle of the bill had received a fair discussion, whether the excise could be applied to the manufacture or not.

Mr. *Brandling* said, that in the town of Newcastle there were many manufacturers of tobacco and snuff, but that they had not expressed the smallest objection to the tobacco act, even as it stood at present. He had voted for that act last session, and not having received any instructions to the contrary, from his constituents, he should vote for the present bill.

Alderman *Sawbridge* reprobated the folly of persisting in a measure, which however it might temporarily flatter the minister's insatiable passion for increasing the revenue at all hazards would ultimately prove as detrimental to that, as it was likely to prove injurious to the interests of the tobacco manufacturers, in the mean time, by cramping their efforts, checking their industry, and harassing their minds.

The House divided on the motion, That the said bill be recommitted:

Tellers.

YEAS { Mr. St. John - - - - / Sir J. Erskine St. Clair - } 72

NOES { Mr. Neville - - - - / Mr. Henry Hobart - - } 141

So it passed in the negative.

April 30. On the order of the day for the third reading of the bill,

Sir *Watkin Lewes*, agreeably to the notice he had given, rose to submit to the consideration of the House, a clause which was deserving, he said, of every attention. He had not brought it forward at an earlier stage of the bill, because it did not afford that entire relief which the manufacturers of tobacco had sought. The House having determined to make a farther trial of that act, of last year, explained and amended as the present bill proposed, he should submit to their consideration the clause, of which he had given notice, as affording some relief, though it fell short of the expectation which the manufacturers looked to, in the repeal of the act. The object of the clause was to secure to every person affected by the bill, that glorious privilege, which was so much the boast of every Englishman, a right of being tried by his peers whenever his liberty or property was concerned. The grand objections to the excise laws, besides those which he had already stated, were, that the persons subject to them were to be tried by those who were appointed and removable at the pleasure of the Crown. This was giving an unconstitutional control to the executive power, when, by the principles of the constitution, every person had a right to a trial by jury. He did not mean to impute any blame to administration, or to the commissioners. He had heard, with pleasure, the chancellor of the exchequer declare, that the subject had occupied a great deal of his time, and he wished to give those persons affected by the excise laws, the benefit of a trial by jury, but he had not made up his mind upon the subject. The clause which he had to propose was not liable to the objections which were before stated: it was confined to those persons affected by the present bill; it was confined to one article; and if it proved not to be injurious to the revenue, he hoped it would lay the foundation of a general bill, to apply to all cases of excise, and that the right hon. gentleman would bring in such a bill. The clause proposed "to give to persons prosecuted for offences against this act an option to have the matter of the complaint tried by jury." It was not to be supposed, that any person would prefer a trial by a jury, unless he was conscious his cause was good, as the Crown paid no expense, and for which he was to give security, and for the penalties he was supposed to have incurred. Sir Watkin moved for leave to bring up the clause.

The *Attorney General* observed, that the present motion brought before a thin House concerned a branch of revenue which constituted one third part of the whole revenue of the nation, and warned the House of the danger of agitating and deciding upon a principle, suddenly brought forward, without due time for mature consideration, in the very last stage of a particular bill; if such a motion were entertained, it ought to be with a view to the whole revenue of excise, upon the fullest notice, and after much investigation and information received. He hoped no one who entertained the

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opinion which he did, of the applicability of the trial by jury to the collection and inland duty, such as the excise, would be considered as an enemy to that institution in general; on the contrary, they who had the most frequent opportunities of seeing the excellent effects of it, which was particularly the case with those of his profession, must be of his opinion on that subject, that, to that happy institution was owing every thing good which we enjoy—that with that it would continue, and with that terminate. The present motion respected not the mode of collecting the excise revenue, and the powers necessarily given to the officers for that purpose, but it respected the present excise judicature. This, he admitted, was an exception to the general principles of our constitution; but it was an exception which had subsisted for near a century and a half; under which trade had flourished, and the country prospered; it was an exception which had not been objected to at the revolution, when the rights and the security of the subject were canvassed and examined to the bottom, for the purpose of restoring every principle of our constitution to its full force; for no new principle was then introduced, but the old ones restored and perfected. Nor had this project been insisted upon till of late. Such a proposition, therefore, which had the test of time, and which had not been deemed a grievance upon the strict scrutiny that took place a century ago, deserved at all times a solemn and deliberate consideration, but ought not to be brought forward under the circumstances which attended the present motion. A general introduction of this mode of trying excise causes, he believed, was given up by most men, as absolutely inconsistent with the collection of a duty consisting of minute detail, which was not the case with the duty of customs, and which was necessarily guarded by many regulations, to which penalties were annexed. The speedy and strict exaction of the penalties annexed to the breach of regulations, he much approved of, as it checked inducements to frauds, which, in the end, might expose the trader to very heavy penalties. This proposition coming at this time, and in this manner, was stated, however, as restricted to an option on the part of the defendant, and as an experiment. As an experiment, he thought it the worst instance which could be selected, because, to make a fair experiment, an instance ought to be selected where the duty had been before collected without an option of this kind; in order to see whether advantage or disadvantage arose from collecting it, subject to such an option. In a duty of which he had obtained little experience, even in the one way, there could not be terms for a comparison with any other. With respect to the option, he wished gentlemen to consider what would be the obvious consequence. Security must be required to answer the forfeiture, or penalty, and the costs, This security could only be judged of by the magistrate, whose jurisdiction was objected to, taking the oath of the sureties, that they were able to answer for the penalty and costs. This would soon degenerate into Jew bail; and, in the course of some months, which must elapse before the trial could come on in the court of exchequer, the effects and the sureties would both disappear. This would be taking the personal security of two individuals, on their own oath, as to their circumstances, instead of the security now given by law over the trader's effects, which might be made to indemnify the revenue immediately. The vital principle of an inland duty was short credit; and they had been progressively shortened for several years past, with a speedy recovery of growing duties, and a speedy inflicting of penalties. If these were objections, the existence of such a duty which produced six millions and a half must be objected to, for without it, that duty could not be collected at all. If this experiment were supposed an advantage to the dealer in tobacco, how must he think it, that the advantage was not given to him, as to many other articles in which he dealt, as was usually the case with retailers. This showed that such a proposition as the present ought to proceed on some fixed and general principle, very maturely considered, and not on one particular article.—With respect to the jurisdiction of the justices, there was not, nor ever had been, any real complaint against it, and he had hardly believed that any instance was to be found, where they had been questioned in the superior courts for malversation in that part of their duty. They had, what the courts above could not take, a large discretion in mitigation; they were gentlemen resident in the country, not likely to be partial to the revenue against their neighbours, and

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who yet felt the necessity of preventing frauds; they were in reality arbitrators with large discretion, between the Crown and the subject. No grievance was suffered, and he verily believed that the trader would not wish to forego that jurisdiction. Gentlemen might conceive that the verdicts of juries were very favourable to defendants in the court of exchequer, and therefore, that it would be reasonable to give them the option of going there. In order to ascertain that he had procured a return from the solicitor of excise from Christmas 1788 to Christmas 1789, of all the verdicts given in excise causes. That year had been somewhat influenced by the avocation of the judges to a duty in another place, and therefore so many causes might not have been tried as in ordinary years. There appeared to be only four verdicts for defendants. One seemed to be on a subject of little value, the merits of which he could not recollect. Another was merely to get the opinion of the court upon the brick act, respecting the duty payable on a commodity called a brick tile, and was understood by all parties to be for that purpose. The third was against a maker of smugglers, who commissioned spirits from abroad, selling them at an advantageous price, if they could be run, where, upon a case proved to the perfect satisfaction of the judge, the jury gave a verdict for the defendant. This, he said, gave him little concern, as capricious verdicts must sometimes occur where a jury are perfectly free agents. The fourth was in the case of a very eminent glover, who employed foreigners to cut and fold his gloves in the foreign manner, as being most sought after, which deceived the trade, and also the officers. As to the advantages which he expected from acquittals by juries, they did not, therefore seem to be very great. For these reasons he felt himself warranted in saying, that nothing in the present state of the judicature, could in the least justify any alteration.

Mr. *Beaufoy* said, that with regard to what had fallen from the learned gentleman relative to the necessity of not bringing forward a clause like the present, but upon full notice, and in such a manner as to afford opportunity for the most mature deliberation, there was no ground for that objection to the present motion. The learned gentleman could not have forgotten, that he had not two sessions since, called the atention of the House to the subject, and brought in a bill for extending the right of trial by jury optionally to all cases of excise. As the law stood at present, the excise officer had that option; he might either subject his seizure to summary jurisdiction, or he might carry it before a jury; all he wanted, Mr. Beaufoy said, was to put the subject on the same footing with the officer, and to give him an option of the mode of decision exactly in the same way as the officer of the excise now enjoyed it. When the bill to which he had alluded, and which he had brought in, on the subject of extending trial by jury to excise cases, was before the House, the purport of it challenged discussion; and therefore it was in his opinion, neither fair, nor consistent with his usual candour, for the learned gentleman to treat the present proposition as a principle never before attempted to be introduced into the excise laws. As to the argument, that if a right of trial by jury were given in cases of excise, it ought to be given in all cases, and not in any particular one, the worthy magistrate had so fully explained, why it was more advisable to make the experiment in a single instance, than to risk so large a revenue as the whole produce of the excise laws, that it was unnecessary for him to add a syllable. Mr. Beaufoy took notice of that part of the attorney-general's speech in which he had observed that most of the excise causes tried in the court of exchequer were decided in favour of the king. He said, that he did not wonder at the facts being as the learned gentleman had stated, because, under the present administration, and such an attorney-general as the country had now the good fortune to be blessed with, it was not likely that any oppressive and vexatious prosecutions would be carried on against the subject; since those who knew the character of the learned gentleman could not have to learn, that he was not likely to countenance any cause being brought to trial, in which there appeared the least colour of reason to think the defendant had not been wilfully culpable. But much as he rejoiced in having an attorney-general of so mild a disposition, and who was likely to exercise the power with which the penal statutes armed him leniently, he did not admire the suffering the liberty and property of a British subject to depend on the humanity and forbearance of any individual: they ought to depend

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solely on the law of the land: and it was for that reason, and to prevent the chance of the subject being harassed and oppressed by future attornies general, who might happen to be less considerate, and more severe than the learned gentleman, that he wished the option of a trial by jury to be sanctioned by statute.

Mr. *Mitford* said, it was impossible for any man, whose profession necessarily made him conversant with courts of justice, not to be a warm admirer of the trial by jury. That mode of trial certainly deserved all that his learned friend had said in praise of it; but there was much ground for doubt, whether it would be right to extend that mode of trial to the excise laws. In the first place, it was a question that must occur to every man whose habits led him to a familiarity with the subject of legal jurisdiction, whether it would be practicable to have all excise causes tried by jury? In the country, the persons liable to be summoned upon juries must have a certain qualification; whence their number, compared with the bulk of the people in their vicinage, was but few. At present it was difficult to find juries; and if all the causes to which the excise laws gave rise were thrown into the scale, the addition would be more than double the quantum of causes at present triable by juries. Such an increase of business, therefore, would not only be productive of manifest inconvenience, but might possibly be attended with an effect which every lover of the constitution must earnestly wish to avert: it might occasion the trial by jury to lose its respectability, and fall into contempt. There was already one sort of juries which had actually sunk into this situation, and that was, the juries summoned to try causes at county courts. Those who knew any thing of county courts, must know what miserable beings attended as jurymen.

Alderman *Watson* said, that the subject ought to have an option of trial by jury in all excise causes; and no arguments which he had heard, had altered his opinion, because he had heard nothing which did not go equally against trials by jury in general. The learned gentleman had thought proper to observe, that if trial by jury obtained in cases of excise, the Crown would have no other than personal security for the penalty in contest; but what other than personal security had the subject or the Crown, in any cause brought into the courts for decision?

Mr. *Sheridan* said, that the learned attorney-general had gone into an elaborate praise of trial by jury, in the very moment that he was endeavouring to persuade the House to reject a clause calculated to extend the benefit of that mode of trial to a very numerous description of subjects. This was of a piece with the general conduct of those who supported every extension of the excise laws; they admitted them to be an exception to the constitution; they declared them to be repugnant to the principles of personal freedom, and they nevertheless voted for them. The House would do him the justice to recollect, that when he lately had occasion to discuss the question of the excise laws at some length, he had declared that, with respect to the applying the trial by jury to the single instance of the excise on tobacco, if that idea were thrown out by way of lure or decoy, he should resist it, not thinking the trial by jury a desirable matter, unless a previous revisal of the excise laws were entered upon, with a view to a general reform of that system. This was his opinion upon the subject; but the clause which had been moved having for its object the applying the trial by jury to the excise on tobacco, he certainly should vote for it.

The House divided: Yeas, 22; Noes, 100. The bill was then passed.

Debate on the East India Budget.] May 3. The report of the East India Budget being brought up,

Mr. *Tierney* rose and moved, "that the said report be re-committed," declaring, that he did so, first, because the resolutions held out a partial statement of the company's finances in India; and secondly, because a partial statement might be injurious to many, and ruinous to the company. The reason why he stood forward singly to make the motion was, because he had made the subject his peculiar study for some years; and so far was he from agreeing with the right hon. gentleman (Mr. Dundas) in his triumphant statement of the flourishing condition of the company's affairs, he felt a firm conviction, that for the four last years the company had been verging to ruin, and that unless some material assistance was afforded them by parliament, before fifteen months were at an end, the company would be bankrupts. It was necessary, therefore, for that House to inquire, not only whether the company had a large

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surplus, but whether they had cash enough before them to go on with. His great object was, to prevent the House from becoming a party to the fraudulent representations which had been made of the state of the company's affairs. He was aware that there was always an uncommon degree of difficulty in getting at the real state of the company's affairs, and it was easily accounted for: they were a body enjoying a monopoly distinct from the rest of the country, and they kept their books so, that they might lay volume after volume upon the table of that House, just as they thought proper, in order to enable them to draw any inference that they pleased. He would nevertheless contend that their affairs were not in a prosperous condition, and he would inform the House on what he grounded that opinion. There were, he observed, a great many papers on the table; he had drudged through the whole of them, and he was happy that one consequence of his having done so was, that he was able to save the House the trouble of a similar labour, and by directing their attention to a few leading points, enable them clearly to comprehend the whole. He had ever considered the East India company as a merchant carrying on a trade to China, and possessing a great estate in India. That the way to come at the state of such a merchant's affairs was, to consider the gross amount of the produce of his estate, to deduct the charges, to consider the prime cost of the goods bought in China, to add the amount of the customs he paid to government, and then to see what were the nett receipts of the sales at home; and this way of viewing his affairs would let in the two points of the management of the territory, and the profits of the trade.—Mr. Tierney having premised this, proceeded to the statement. He said, he would ask no questions how this or that article came to be stated so high, or so low, but would take whatever he saw in the papers on the table to be correct, and upon those figures he would rest his arguments. He then recapitulated the principal articles, stating the amounts of the Bengal revenue, &c. &c. for five years, and said, the nett surplus was 1,257,267*l.*; taking it on an average of four years, it was 1,468,185*l.* and taking it on an average of three years, the amount would be 1,850,286*l.* Mr. Tierney reasoned upon each amount, and said, the total profits on four years trade were 526,192*l.* He next went through the Bengal, Madras, Bombay, and Fort Marlborough estimates, &c., declaring that he took them without asking for the extraordinary receipts, or extraordinary disbursements, because, if he were to go into them, the length they would lead to would frighten the House. He took notice of what Mr. Dundas on a former day had said of the increased receipt from the salt duty, and declared, he could not help wishing, that the right hon. gentleman had not mentioned that receipt with so much triumph, since it was one of the most iniquitous proceedings that had ever disgraced a public company. He entered into the statement of the different quantities of salt sold by the company in different years; in one year in the proportion of 74, and in the next of only 24 maunds; whereas Mr. Grant had said, that the quantity actually necessary for the consumption of India, could not be less than 33 maunds a-year. He reasoned on the cruelty of thus sporting with the necessities of the natives, and extorting, as it were, a revenue out of their very bowels, salt being, as it was well known, a necessary of life to the poor in India. Mr. Tierney next came to consider the debt in India, and having stated its amount at different periods, contended that it was worse in 1790 than it had been in 1786. After going through all the parts of the subject belonging to India, he took a view of the company's affairs at home, making it out that the company had, upon a capital of four millions, in four years, only obtained a balance upon their trade in their favour of 490,000*l.* In this part of his speech he detailed a variety of figures which we cannot pretend to follow him through. At length he sat down, repeating his assertion, that upon the amount of three years the surplus of the revenues in India was only 1,850,286*l.*

Mr. *Dundas* observed, that the hon. gentleman had charged him with bringing forward a partial statement of the affairs of the company. It was, Mr. Dundas admitted, extremely true; because he from year to year, stated only that part of the company's affairs, of which he was concerned in superintending the administration. The hon. gentleman gave general figures without specifying the papers to which he alluded; whereas, whenever he had stated to the House any accounts relative to the situation of the company's

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affairs, either abroad or at home, he had referred gentlemen to the particular paper in which they might find each individual article, so that they might have immediate recourse to the proof, whether what he was stating was correct or not. As the hon. gentleman had not controverted any of the facts he had stated on a former day, Mr. Dundas said, he could do no more than recapitulate, from some figures, that he had upon a paper, the various heads of the account upon which he had grounded the resolutions that he had moved, and which had been voted by the committee: and in so doing he would take it in the way stated by Mr. Crawford in his pamphlet, correcting Mr. Crawford's errors as he proceeded.

Mr. *Baring* went into a recapitulation of payments made by the company in the space of the last six years, to prove that they had completely fulfilled their expectations, and could fairly say, that they were better than before by 900,000*l*. He enumerated the bills drawn for political purposes, the respited duties, and all the various debts that they had discharged. He said, he could by no means agree with Mr. Dundas, that the company were answerable for the state of their commercial concerns. So long as a part of their revenues were appropriated to the payment of their debts in India, and withheld from the purchase of their investments, those who had the superintendance of their political affairs, were, in his mind, responsible for their prosperity both abroad and at home. The four millions borrowed were, he said, sunk in the China trade, and therefore could not properly be deemed a debt, there being a stock in hand and a quantity of capital fluctuating, equal to the amount.

Major *Scott* was sorry that Mr. Tierney had mentioned the conduct of the government of Bengal in such harsh terms, for their mode of realizing the salt revenue. It had happened most undoubtedly, in one period of the last year, that the price of salt was so high as to be very oppressive to the people; this evil the government had felt, and had effectually remedied, and by the accounts just received, it appeared that salt was now got down to its proper price; that the season for its manufacture had been exceedingly favourable; and that from the additional quantity now brought to market, the natives would procure it at a reasonable price, while the revenue it yielded to the company would be kept up to its present amount. He perfectly agreed with Mr. Baring, that the account delivered in by the Direction in 1784, as far as depended upon them, had been more than accomplished. The major said, that when he had ventured to predict in 1784, that when the peace establishment was formed in Bengal, there would be an available surplus of 150 lacks of rupees, he was accused of being too sanguine, but the surplus was actually more than 200 lacks. He implored gentlemen to cast their eyes upon the papers before the House, they would then find that the receipts for ten years past had been so equal as to have no apprehension of a failure in future; for if there was any difference, it was this, that the revenue had rather increased than diminished. The expenses of Bengal had been brought within the sum he had calculated, though he was sorry to say that in the other settlements they had far exceded what he conceived their amount ought to be. As this might be the last time he should have occasion to speak upon an Indian budget in the present parliament, he earnestly conjured the House to consider the very extraordinary situation in which they stood. They were now for a fourth time going to enter upon their journals a variety of resolutions, to the truth of which he most heartily concurred; but at the same time, the House knew that they were directly contradictory to other resolutions now upon their journals relative to India. Both could not be true. If what they had voted the three preceding years, and were now about to vote, was true, then what the House had voted upon another occasion (meaning the articles of impeachment) must be totally false, because the one described the country to be flourishing and the revenue increasing—the other that it was desolated and ruined, and that the present system was attended with great loss and damage to the revenue of Bengal.

Sir *Grey Cooper* said, it was not his intention to go further into the question of the actual state of the company's affairs at home and abroad; but he had a matter to submit to the consideration of the House, which he conceived to be of very considerable importance, and which would be a test whether the company had, or had not, a clear available surplus, on the balance of the revenues and trade, compared with their charges and expen-

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diture. An act of parliament was passed in 1783, ch. 83, empowering the lords of the treasury to issue exchequer bills to the amount of 900,000*l.* to be advanced to the directors of the East India company, to enable them to pay certain debts and demands upon them at that time. By the 2d sect. of the said act, the monies so raised, with all interest thereon, are charged on, and shall be repaid and borne by and out of the monies to be paid by the said company, in the manner directed by the said act: and if not paid before the 5th of April 1786, to be charged on the next parliamentary aids; and if supplies be not granted for that purpose before the 5th of April 1786, they shall be charged on the sinking fund till redemed. By sect. 8, of the said act, "the whole clear profits of the territorial revenues in India and of the trade of the company, shall be applied, in the first place, to the diminution of payment of the debts specified in the said act due to his majesty, and afterwards in diminution and payment of the said sum of 900,000*l.*, together with all interests and charges thereon." The debts to his majesty have all been discharged. It is now contended by the right hon. gentleman, that there is a considerable surplus resulting to the company from the aggregate profit of their revenue and trade; and it appears, that in March 1789, 300,000*l.*, was paid into the exchequer, stated to be on account of monies due to government for the forces and ships in India; and in March 1790, 200,000*l.*, more on the said account. Sir Grey asserted, that this was a gross and direct breach of the appropriation of the surplus directed by the act of parliament, and by which the order of payment was marshalled in the manner certainly the most beneficial for the public. It might be material to observe, that in the estimate of receipts and payments, from the 1st of March, 1789 to the 1st of March 1790 one of the articles of destined payment was, exchequer bills 300,000*l.* That payment was not made; but the cause of its being not intercepted, was not difficult to be accounted for. The cancelling of the exchequer bills, and of the redemption of the debt due to the bank, would not only have been a good public measure, but it would have operated merely by extinguishment of debt; whereas the payment of 300,000*l.* for arrears of money due on account of the forces and ships, in March, 1789, and 200,000*l.* in March 1790, helped to carry through the income of both those years, and to assist the fallacy on the public; but he conceived that the measure was in direct contradiction to the plain directions of the act of 1783, both on the part of the company, and of the treasury.

Mr. *Sheridan* took notice of Mr Dundas's declaration, that he did not hold himself accountable to the House for the whole state of the company's affairs. The right hon. gentleman, he conceived, had not in this declaration done himself quite justice, because he held in his hand a speech of the right hon. gentleman, which he could rely on, as it was too correct for a newspaper report, though those reports were frequently very accurate. In fact, he took the speech to have been furnished by the right hon. gentleman himself, and printed for the use of his friends. He had had, however, the good fortune to procure a copy. He then read a paragraph from the printed speech in question, in which Mr. Dundas stated, that "whenever any person came forward, as he then did, to move for leave to bring in a bill enabling the company to increase their capital by the loan of a million, he was bound to state their entire situation;" and yet, observed Mr. Sheridan, notwithstanding the excellent doctrine contained in the paragraph I have read, the right hon. gentleman now says, "I'll show you only one part of the question, namely, the political state of the company's concerns." Mr. Sheridan insisted, that the House had not a fair account, unless they had an account of the commercial as well as of the territorial affairs of the company. He took notice of a part of Mr. Baring's speech, who had asked rather ironically, if Mr. Tierney's representations were just, whether the company ought not to come to government and beg them either to suffer the company to give up their charter, or to allow them a premium for carrying on a disadvantageous trade? That irony might sound well, and it might be true that the trade was a disadvantageous one, but nevertheless there were reasons that might make it worth the company's while to carry on a losing trade. The hon. gentleman, he observed, had said, that the four millions the company had borrowed, were sunk in the China trade, and therefore he considered it as no debt; that being the case, Mr. Sheridan said, he wished to know whether the tea trade had been a profitable one or not?

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Mr. *Pitt* said, that the motion seemed to him to be meant rather as a vehicle for the general observations made by the hon. gentleman, than as an occasion calling for any grave remark to show that the resolutions contained in the report ought to be re-committed. His right hon. friend had for some years past set himself the task of bringing forward the state of the company's affairs abroad, in order to show the House how their debt and their finances went on in India; and in so doing he had acted in a manner peculiarly proper, considering the situation in which his right hon. friend stood, and considering that the political state of affairs in India (connected as India was with regard to this country) were blended and involved with the general political interests of the British empire, and as such it became necessarily as much a duty every year to lay before parliament an account of the income and expenditure, with all the relative circumstances of our finances in India, as it indisputably was for a person holding the office in which he had the honour to be placed, to make known to the House the situation of our own finances. The hon. gentleman, however, had said, that there had been an occasion, in which his right hon. friend had thought it necessary to state the whole of the company's affairs, commercial as well as political. Certainly there had occurred such an occasion; but what had been the reason? Why, his right hon. friend at that moment wished to persuade the House to grant him leave to bring in a bill, enabling a trading company to borrow money with the authority of parliament; it was necessary, therefore, on such an occasion, to lay before the House a complete view of the company's affairs, and to state their accounts of all kinds so as to render it impossible to escape detection, if those who were likely to advance the money should not be in a state of perfect security. But how did the hon. mover state the accounts of the company's affairs abroad? On the average of an annual revenue? Directly the contrary. He had stated an average of five years, and then of four, and then of three! taking in years perfectly dissimilar, consequently inapplicable to such a comparison, and such years as were extraordinarily heavy, because in those years the war expenses were paid off, which being once paid off, would not swell the amount of future and succeeding years. Mr. Pitt then ran through a statement of the amount of the receipts and sales as follow:

Total of receipts in India		£.6,980,000
Total of sales at home, in 1789, 1790, including private, trade, &c.		4,834,000
		11,664,000
Total disbursements abroad, including interest	5,556,000	
Costs and charges of Goods at home	4,354,000	9,910,000
Which makes the surplus, according to cash estimate		1,854,000
From which deduct interest, annuities, and dividends payable at home, amounting in 1789, 1790, to		541,000
There would remain a nett surplus, applicable to the reduction of debts, amounting to		£.1,313,000

But as the dividends, &c. in consequence of the increased capital, amounted now to 770,000*l.* instead of 541,000*l.* there would remain an annual nett surplus, applicable to the reduction of debt, amounting to 1,083,000*l.*

Mr. *Greville* said, that he was so far from looking on the monopoly of salt with horror, that he considered government's holding the monopoly, as a protection of the natives against the combination of the merchants. He meant not to impute blame to lord Cornwallis, nor to detract from his acknowledged merit; but he thought that suffering the zemindars to collect the land revenues was wrong. He mentioned Mr. Grant's book as having afforded him great information, and he hoped it would be printed.

Mr. *Francis* said, he should not have risen but for something that had fallen from the hon. gentleman who had just sat down. Much of what the hon. gentleman had said, he did not really understand; but there had been stated by him one or two propositions which he did clearly comprehend, and which he had heard with a degree of abhorrence. The hon. gentleman had been pleased to commend the government of Bengal for retaining the monopoly of salt, and had said, it was a protection to the people against a combination of merchants. Mr. Francis was astonished that any hon. gentleman could venture to maintain such a proposition. Our government in India was an arbitrary one; and was a monopoly in the hands of an arbitrary government to

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be deemed a protection of the people? Such a proposition was directly contrary to common sense. He should have thought the best way of protecting them, would have been to have left the trade open, to have suffered the merchants to buy and sell salt, and to have encouraged a competition, from which alone a reduction of the price was to be expected. Another point the hon. gentleman had spoken to, which was equally extraordinary; and that was, respecting the rights of the zemindars. The zemindars, the hon. gentleman had said, were not to be trusted with their lands, and the collection of their own rents. And for what reason were these privileges to be withheld from them? Why, because we had reduced the zemindars to a poor and abject state by our tyranny, and deprived them of almost every other right. Mr. Francis reprobated this doctrine, and most especially the principle that had been set up in its justification! He next observed, that the hon. gentleman had alluded to Mr. Grant's book, which he wished to have printed. That book, Mr. Francis declared, required the utmost vigour of the human mind to read. He had read it, and hoped it would be read by others; but he much doubted their resolution to go through it. He considered it as one of the greatest efforts of his life to have gone through it; and nothing but the most determined resolution, and unabating perseverance, could have enabled him to surmount the difficulty. He feared, therefore, that but few gentlemen belonging to that House would derive much information from it. There was a time when the monopoly granted to the company was very profitable, and when the company anxiously kept their trade in their own hands; but the case was now different, as he could easily prove, by reading certain advertisements from the Calcutta gazette.

These documents showed, that in effect the company had renounced their monopoly, and laid open their exclusive trade as no longer practicable or beneficial. How different their sentiments on this subject were in the year 1775, would appear by their orders of that date. At that period, it was deemed little less than treason against the company for any individual to deal in the same articles with them. Now, they not only permitted private persons to trade in competition with themselves, but took up more ships than they wanted, in order that there might be surplus tonnage to accommodate the private traders at a reasonable freight. Mr. Francis said, if the company thought that by accommodating private traders with taking their freight on board their ships, they should be able to pay themselves for taking up such large ships, he believed they would find themselves mistaken.

Mr. *Tierney* rose to reply. He took notice of Mr. Pitt's declaration, that the motion appeared to him to have been made rather as the vehicle of the hon. gentleman's argument, than with any serious wish to have the report re-committed: in answer to which, he declared, that he did seriously wish that the report might be re-committed, in order to afford an opportunity of examining the grounds of what he had stated; and if upon inquiry it should be found that he had committed no error, to shape the resolutions accordingly. With regard to Mr. Dundas, he appeared to him to have spent the preceding day in preparing himself to answer such objections as he imagined he (Mr. Tierney) was likely to urge. But as it happened that he had not urged any one of those objections, the right hon. gentleman had been answering Mr. Crawford's book instead of him. As Mr. Crawford, however, was perfectly able to defend himself, there was no occasion for him to take that trouble. The chancellor of the exchequer had charged him with resting on an average of five years, whereas he had done no such thing, because that would have been unfair. He had rested on an average of three years, and that, he contended was perfectly fair. Mr. Tierney repeated it, that the salt business was an iniquitous proceeding, big with misery to the people on the one side, and on the other of no advantage to the company. Not one syllable, he observed, had been denied of what he had said, but it had been asked where did he pick out the items? In answer to which, he had to say, that he picked them out from the papers on the table; and if the report were re-committed, he would show from whence he took each particular.

The motion was negatived. The several resolutions were then read a second time and agreed to.

King's Message respecting Vessels captured by Spain at Nootka Sound.] May 5. Mr. Pitt presented to the Commons the following Message from his Majesty:

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"George R.

"His majesty has received information that two vessels belonging to his majesty's subjects, and navigated under the British flag, and two others, of which the description is not hitherto sufficiently ascertained, have been captured at Nootka Sound, on the North Western coast of America, by an officer commanding two Spanish ships of war; that the cargoes of the British vessels have been seized, and that their officers and crews have been sent as prisoners to a Spanish port.

"The capture of one of these vessels had before been notified by the ambassador of his catholic majesty, by order of his court, who at the same time, desired that measures might be taken for preventing his majesty's subjects from frequenting those coasts which were alleged to have been previously occupied and frequented by the subjects of Spain. Complaints were also made of the fisheries carried on by his majesty's subjects in the seas adjoining to the Spanish continent, as being contrary to the rights of the crown of Spain. In consequence of this communication, a demand was immediately made, by his majesty's order, for adequate satisfaction, and for the restitution of the vessel, previous to any other discussion.

"By the answer from the court of Spain it appears, that this vessel and her crew had been set at liberty by the viceroy of Mexico; but this is represented to have been done by him on the supposition that nothing but the ignorance of the rights of Spain encouraged the individuals of other nations to come to those coasts for the purpose of making establishments, or carrying on trade, and in conformity to his previous instructions, requiring him to show all possible regard to the British nation.

"No satisfaction is made, or offered, and a direct claim is asserted by the court of Spain to the exclusive rights of sovereignty, navigation, and commerce, in the territories, coasts, and seas, in that part of the world.

"His majesty has now directed his minister at Madrid to make a fresh representation on this subject, and to claim such full and adequate satisfaction as the nature of the case evidently requires. And, under these circumstances, his majesty, having also received information that considerable armaments are carrying on in the ports of Spain, has judged it indispensably necessary to give orders for making such preparations as may put it in his majesty's power to act with vigour and effect in support of the honour of his Crown, and the interests of his people. And his majesty recommends it to his faithful Commons (on whose zeal and public spirit he has the most perfect reliance) to enable him to take such measures, and to make such augmentation of his forces, as may be eventually necessary for this purpose.

"It is his majesty's earnest wish, that the justice of his majesty's demands may ensure, from the wisdom and equity of his catholic majesty, the satisfaction which is so unquestionably due; and that this affair may be terminated in such a manner as to prevent any grounds of misunderstanding in future, and to continue and confirm that harmony and friendship which has so happily subsisted between the two courts, and which his majesty will always endeavour to maintain and improve, by all such means as are consistent with the dignity of his majesty's crown, and the essential interests of his subjects. G. R."

The message was ordered to be taken into consideration to-morrow. A similar message was sent to the Lords.

Debate in the Lords on the King's Message respecting Vessels captured by Spain at Nootka Sound.] May 6. His Majesty's Message having been read,

The Duke of *Leeds* observed, that the uniform tenor of his majesty's conduct, during a long reign, had been such, that not only his subjects, but every foreign state must know his pacific disposition; he had studiously endeavoured to preserve and maintain peace for the one; and wherever his mediation was likely to be effectual, he had constantly and invariably exerted his utmost for the other. Their lordships must therefore be convinced, that it was with the utmost concern and reluctance that his majesty had taken the steps alluded to in the message, and that it was with infinite regret he saw any probability of the harmony being interrupted which we at present enjoyed; but the Spaniards had rendered it absolutely necessary; for they had proceeded further in their insult than was ever the case between two powers who had actually commenced hostilities, inasmuch as they had captured a British vessel, and instantly sold off her property, without its undergoing any judicial investigation: a

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demand of restitution was consequently made, and the ship was set at large; but upon what plea?—not by the court of Spain's disavowing the action, but upon the supposed ignorance of the English crew, not knowing they were infringing upon the Spanish territory; this was the answer, instead of offering any satisfaction; and if his majesty was to submit to such an indignity in the first instance, there would be an end to the honour of Great Britain, and that glory would be tarnished which she has acquired by defending the rights and protecting the commerce of her subjects in every part of the globe. To prevent which, his majesty's minister at Madrid had been ordered to require a full and clear explanation. His majesty, however, only demanded, and was determined to maintain, justice; he did not wish to indulge resentment. It was still his fervent hope, that the court of Spain would see the impropriety of her conduct, listen to reason, and so render our preparations entirely useless. Should, however, the contrary be the case, his lordship did not believe there was a single peer in that House who would not cheerfully support his majesty in the justice of his cause, as without that support there must be an end to the honour, dignity, and commerce of this country. He would therefore submit to their lordship's consideration an humble Address to his majesty, in answer to his majesty's gracious message.

The address was then read, and, as usual, was a repetition of the message, with the addition of their lordships thanks for his majesty's condescension, and their readiness to comply with its contents.

Lord *Rawdon* was convinced, that upon a subject of this nature there could not possibly be but one sentiment in the breasts of every man in that House, therefore he had been anxious to stand forward upon the occasion, to express his hearty concurrence in the address moved by the noble duke. He was perfectly of opinion with him, that if insults of this nature were passed over, there must very soon be an end to that honour which England had so long maintained; yet he could not forbear reverting to what he had formerly said, respecting the necessity of keeping the power of retaliation in our hands, which we gave up with the Musquito shore, as he had often taken the liberty to hint to their lordships. He should trouble them with two or three motions relative to the subject, and in which he hoped ministers, for their own credit, would also agree with him; the first was, for an account of the trade and commerce of this country, to the part where the ships had been captured, with an account of our fisheries on the North West coast of America; the next was for extracts of those letters and papers, with their dates, which had passed upon this subject; together with the amount and nature of the armament alluded to in the message. The first he wished to have produced, as it might inform the House more fully upon the business; the latter would enable them to judge whether his majesty's ministers had acted with propriety.

Lord *Stormont* was of the same opinion as the last noble lord, with respect to the propriety of the motions he intended to make, and went into an argumentative speech to prove the necessity there was for the House to agree with them. He contended, that the whole matter might have been foreseen and prevented. The injudicious surrender of the Musquito shore was, he said, now likely to be sensibly felt, and it could not be urged against him, that he applied this circumstance to that transaction, having at that time pointed out what would be the consequence. Two years back he had stated the impropriety of suffering Spain to retain her force, when we dismantled ours; and so far from the armament now alluded to being a new thing, it had been above two years in existence. He could not avoid drawing their lordships attention to one circumstance; it was, the assurance that had been given by the minister of finance in another place, not more than a fortnight back, of the flourishing situation of the kingdom, and the happy prospect we had of a long and uninterrupted peace, and this at the very time he must have been acquainted with this serious business. Surely this was sufficient to induce their lordships to call for the papers his noble friend intended to move for, as they would fully enable them to judge for themselves. No man more sensibly felt for the preservation of the glory of his country than he did; and although, by impolicy towards Spain, but for the troubles in France, we should now have been assailed by the whole family compact, he trusted that in that case it would have been found, that in times of necessity the people of this country had but

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one hand and one voice, and were actuated by one spirit.

Lord *Hawkesbury* said, that the production of the paper could not be attended with any one advantage, and might occasion much inconvenience. As to the first, he did not see how it was to be complied with, as there were no accounts kept of the trade to that spot, as he believed there was not any directly from England; and as to the latter, he considered it impolitic to expose the whole of a transaction which was still in a train of negociation, and might happily terminate. He did not think that any such thing was ever thought of or proposed in any House of Parliament; nor in his mind was there any kind of deception in what the noble viscount had said a right hon. gentleman had thrown out in another place. Whether such a thing was said or not he could not tell, but whether it was or was not, he did not conceive it ought to be brought forward as a reflection, because the subject of a power, having committed an insult was no proof that the court would avow, nor until such an avowal, could there be said to be any difference between us.

Lords Stormont, Carlisle, and Portchester, spoke in favour of the motions of lord Rawdon, and the duke of Leeds and lord Hawkesbury against it; when they were at length reminded by the chancellor, that the only question before the House was, the address to his majesty, and as he found no difference of opinion with regard to that, he would put the question; which he did, and it was agreed to *nem. dis.*

Debate in the Commons on the King's Message respecting Vessels captured by Spain at Nootka Sound.] May 6. The order of the day being read for taking into consideration his majesty's Message,

Mr. *Pitt* rose. He said, that much as they must regret the circumstances stated in his majesty's message, and the possible contingencies to which those circumstances might lead, he conceived he should not do justice to the feelings and public spirit of that House, if he entertained for a moment an idea that there could be any difference of opinion as to the measures which such circumstances would make it necessary to adopt. There was no occasion for him to enlarge upon the facts stated in his majesty's message; the bare mention of them, he was persuaded, was sufficient to induce the House to give their concurrence, and he should hope, their unanimous concurrence to the motion with which he should have the honour to conclude. These facts were: first, they knew that some of his majesty's subjects had been forcibly interrupted in a trade which they had carried on for years without molestation, in parts of America where they had an incontrovertible right of trading, and in places to which no country could claim an exclusive right of commerce and navigation. They knew that this information had been made by a seizure of a ship's cargo and company, without any previous notice, and in a moment of profound peace. They knew that the officers and crew had been sent as prisoners of war to a Spanish port, without the pretence of any regular jurisdiction, or without even having gone through the forms of condemnation uniformly resorted to in cases of prize at a time of general hostility. He wished to abstain from using any words of aggravation; but the bare mention of the facts he had stated, must be sufficient to induce a British House of Commons to demand adequate satisfaction for the injury done to their fellow-subjects, and to resent the indignity offered to the British flag. They knew likewise, that on a representation to the court of Madrid, his majesty's ministers had been informed that one vessel had been restored, but that no satisfaction had been made; on the contrary, the restoration was accompanied by a claim on the part of the court of Spain, the most absurd and exorbitant that could well be imagined, a claim which they had never heard of before, which was indefinite in its extent, and which originated in no treaty, nor formal establishment of a colony, nor rested on any one of those grounds on which claims of sovereignty, navigation, and commerce usually rested. If that claim were given way to, it must deprive this country of the means of extending its navigation and fishery in the southern ocean, and would go towards excluding his majesty's subjects from an infant trade, the future extension of which could not but be essentially beneficial to the commercial interests of Great Britain.—Mr. Pitt enlarged on the very material disadvantages we should feel, if the exorbitant claim set up by the court of Spain were complied with, and thence urged the necessity of meeting it as they ought to do, and by that under-

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stand definitely and distinctly what they were to expect from other nations on points so essential to the dignity of his majesty's Crown and the interests of British subjects. It was therefore necessary for that House, by granting his majesty an additional force, to enable his majesty to act with vigour, and effectually to secure the honour of his Crown, and the safety, happiness, and prosperity of his people. He hoped, however, that it would not be ultimately necessary to use the force hostilely; but that it would enable his majesty's minsiters to obtain, what the people would expect, an honourable reparation and satisfaction, which should be ample on the one hand, and on the other should lead to such an explanation as should be most likely to produce an amicable termination of the dispute, and render the continuance of tranquillity permanent. Heartily should they all rejoice, if by the moderation and prudence of the court of Spain, a contest should be avoided. No man would more regret the day of even a temporary interruption of peace, than he should; but he should be unworthy of the situation in which he stood, unworthy of the character of a member of parliament and a subject of Great Britain, if, however anxious he was for a preservation of the blessings of peace, he did not resist the exorbitant claim set up by the court of Spain, and at any risk recommend a vigorous preparation for war, with a view, at all hazards, to assert our rights, and to obtain complete satisfaction for the injury sustained, and the indignity offered to his majesty's Crown. If justice was not done them by others, they must endeavour to do justice for themselves. The King, he was confident, would meet the unanimity of a loyal, a generous, and a brave nation, with the most vigorous exertions. He had thought it necessary to premise thus much, and having done so, said he would move, "That a humble address be presented to his majesty, to return his majesty the thanks of this House, for his most gracious message, acquainting this House of those circumstances relative to the capture of British vessels on the North Western coast of America, and to the conduct of the court of Spain, on this occasion, which have induced his majesty to give orders for making such preparations as may put it in his majesty's power to act with vigour and effect in support of the honour of his majesty's Crown, and of the interests of his people; and to assure his majesty, that we shall readily proceed to enable his majesty to take such measures, and to make such augmentation of his majesty's forces, as may eventually be necessary on this occasion.—That we trust that the justice of his majesty's demands will ensure, from the wisdom and equity of his Catholic majesty, the satisfaction which is so unquestionably due to his majesty; and that we shall sincerely rejoice in such a termination of the discussions now depending, as may prevent any grounds of misunderstanding in future, and may continue and confirm that harmony and friendship which has happily subsisted between Great Britain and Spain; but that we, at the same time, feel it our indispensable duty to assure his majesty of the determination of his faithful Commons, to afford his majesty the most zealous and effectual support in such measures as may become requisite for maintaining the dignity of his majesty's Crown and the essential interests of his majesty's dominions."

Mr. Secretary *Grenville* declared, that after what his right hon. friend had said, he could add nothing, and must therefore only comply with the forms of the House and say, by cordially seconding the motion, he hoped that it would meet with the unanimous concurrence of the House.

Mr. *Fox* said, that no member within the House could be more sensible than he was of the disadvantage, at the same time that he could not resist the temptation of declaring that he heartily concurred with the motion, of rising to state some observations on the situation in which we now stood. No man felt more strongly the necessity of arming than he did. No man felt a warmer resentment at the unprovoked aggression of the court of Spain. He thought that there could not arise a doubt of the necessity of an immediate and a vigorous armament, and he conceived, with the right honourable the chancellor of the exchequer, that it was probable that this armament might produce its effect without proceeding to the extreme of war, and that the absurd claim of the court of Spain (which the right hon. gentleman had so forcibly described, that he would not weaken, that description by attempting to add to it) might be put an end to, but he wished that the message had told them more than it did. They ought to have known what the afterwards captured ships were doing,

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or intended to do; whether they were about to make an establishment, or whether Spain knew that we were about to make an establishment. It was a question with him, whether or not the event which had happened, and the facts stated, were not such as might have been foreseen or prevented. The House had now been given to understand, that the vessels were seized without any preliminary notice: had such notice however, been given, it would have made no difference in his vote on that day, convinced as he was that there could not be a single man in that House, or in the country, but must see the necessity for a vigorous armament. This country certainly could have had no reason to have expected an act of hostility from any quarter a few days back, when, from every appearance we were led to look for a long and an uninterrupted peace. That prospect at least for the present, was gone: and in its stead there was much matter of serious concern; for however favourable a war at its commencement might appear, it was impossible to foretel its ultimate consequences. He had not in the whole course of his life been accustomed to speak with despondency of the resources of the country, but he did not think it fair in a matter of great and serious concern, to pass those resources over and take no notice of them at a moment when the occasion seemed necessarily to require that they should be mentioned. It was now scarcely a fortnight since the minister of this country pointed out to the House the prosperity and flourishing state of the finances, and in no part of his speech did he seem more confident than in the assurances he gave the House of the prospect of the continuance of peace. On first hearing the message, it struck him as an instance of the uncertainty of human wisdom and the mutability of human affairs, when he observed a gentleman at the head of the administration of this country, and of great talents, one day pointing out the increasing resources and the great probability of a continuance of peace, and in a fortnight afterwards coming down to that House and telling them that they must prepare for war. Viewed in another manner, it gave rise to different suggestions. When the right hon. gentleman was vaunting of the resources of this country, he knew that Spain had, without a colour of pretence, seized British ships, made prisoners of their crews, and confiscated the property in the vessels. The right hon. gentleman knew these facts from the Spanish ambassador, who had communicated them in a deliberate and premeditated message on the part of his court. Where was the difference between matters now and matters three weeks since? There did exist, Mr. Fox said, a distinction, and he would state what it was, and wherein it consisted. Let them compare the two situations. Not three weeks since, they were told of the great probability of a continuance of peace, but now they were told, not indeed of the certainty of war, but of the probability of war. They now knew that the ships had been seized; they knew that before. They now knew that the officers had been sent to a Spanish port prisoners of war; they knew that distinctly before. He understood that the Spanish ambassador had not only stated the capture, but accompanied it with a complaint and a requisition, that his majesty would not suffer his subjects to trade on those coasts, and fish in the southern ocean. We now knew that Spain was carrying on great armaments: we knew that at the former period also. Every particular that he had stated, his majesty's ministers knew when they were exulting on the prospect of peace. That they should be obliged to go to war, he admitted might, and he hoped would, be otherwise. He hoped that when they had armed, Spain would in some measure retract; but what did they now know, which they did not know a fortnight since, in consequence of a premeditated message by authority from the Spanish ambassador's court? He hoped that the court of Spain would retract, from principles of justice and prudence, because they had made their claim without justice, and advanced it without prudence. He was one of those who, at the moment of the minister's exultation, had for months known the increase of the Spanish armament. The right hon. gentleman had better opportunities of knowing what the extent of the armament was than he could pretend to; and when Spain was arming, it was not very reasonable to think that we should be long at peace. He owned he did not see the necessity for the minister to go out of his way in opening the state of the finances, to introduce assurances of continuance of peace; it must take away from that security and happiness into which the public were lulled,

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when they were informed, from the throne, that those assurances were groundless. When the lottery was talked of in a late debate, he recollected that an hon. friend of his (Mr. Sheridan) complained that the minister was an auctioneer; he complained that at the moment in question the minister was acting the part of an auctioneer throughout, by puffing and praising the prospect of peace, when there was in reality a great probability of a speedy war. He always thought it injudicious that this country, in making the last peace, had stipulated with one branch of the house of Bourbon, France, that the two countries should respectively reduce their marine to a certain point, and not stipulate in like manner with Spain; because it was obvious, that all the danger to be dreaded might still fall upon us, it being competent to the other branch of the house of Bourbon to arm to whatever extent she thought proper. And he would ask his majesty's ministers, whether Spain had not continued in an armed state, and been increasing her armament, ever since that period? When the peace was negociating, he had heard that the empress of Russia solicited to have the same favour shown to her which had been shown to France, with regard to letting the French flag give protection to property not belonging to France so long as we were not at war with France. It was answered to Russia, that it could not be done. When it was asked, "Why will you not unite with a power you call your friend, when you unite with your natural enemy?" The answer was, "It was for that very reason. We think France most likely to take part against us whenever we are engaged in a war, but we consider you as more likely to remain a neutral power." Mr. Fox reasoned upon this point, and at length came to consider the claim of the court of Spain, declaring, that this court had often set up claims equally unjust and unreasonable. He conceived the exploded claim of the pope's demarcation to be wholly set aside, and that the discovery of any place, and making it the possession of this or that king by setting up a cross, or any other token of having been there was equally exploded. In fact occupancy and possession should be considered as the only right and title. He remembered, that in late convention with Spain, there had been much negociation about the Musquito shore, the claim to which on the part of the court of Madrid he considered as one of those rights which he had stated as exploded; and he declared that he never had understood the policy of our giving up that point without some compensation, unless it had led to an ultimate adjustment of the rights of Spain in all similar respects. So far from this being the case, it led only to encourage those claims in Spain which he considered as contemptible. Mr. Fox read that part of the message and address which referred to explaining the grounds of misunderstanding, and observed that the passage gave him particular pleasure, because there obviously might be two pacific ends to the measure. There might be an adequate satisfaction made without arrangements to prevent such evils in future, whereas he was clearly of opinion that the point was not the mere capture of the ships, but the great and important point of the definition of the claims of the court of Spain in respect to America and the southern ocean. He therefore hoped that we should not rest contented merely with a satisfaction for the injury, but obtain a renunciation of the claim set up with so little ground of reason; that he conceived to be the intent and meaning of his majesty's message; and on that idea he heartily gave his vote for the address. As to the other topic, the disappointment of this country as to its situation, he hoped that it would prove a lesson to his majesty's ministers for the future, not to be too sanguine in their expectations of the permanency of peace, when they were, in fact, on the eve of a war. The extravagance of the hopes held out by ministers added to the disappointment, the alarm, and the fears of the public, when they suddenly found those hopes falsified. Had not such fallacious hopes been excited, he trusted that his majesty's message would not have had the effect on the public funds, and the minds of men, which it had produced.

Mr. *Pitt* said, that whatever he might think of some parts of the right hon. gentleman's speech, he sincerely rejoiced at his full and explicit concurrence in the principles of the address, and at the prospect of unanimity that it afforded; and owned that he had heard the right hon. gentleman's speech with much satisfaction on the whole, though with some of the observations which the House had just heard, he could not help saying he was very much surprised. The right hon. gentleman had

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said, that at the time of the budget there had been an inconsistency in his language. In answer to which remark, he must take the liberty of saying, that the right hon. gentleman was mistaken in both points; he was mistaken both in the language that he supposed to have been held by him, and mistaken likewise in the circumstances to which the right hon. gentleman had referred. Mr. Pitt said, he had not said one syllable prospectively on the continuance of peace; he had said, that our present prosperous situation had arisen from the natural spirit and resources of the country in the happy interval of peace; that if by the blessing of Providence that peace should continue, our resources would continue to increase; and that the most likely means to insure the continuance of those blessings was, to persevere in the same vigorous exertions, by which alone, when the day should come, they could be enabled to meet the perilous exigencies of war. He had next said, that the right hon. gentleman was mistaken in his statement of the circumstances to which he had referred. The right hon. gentleman had said, they knew every thing when the budget was opened, that they knew now. The fact was directly the reverse. They knew nothing of the facts in question, but what they knew from the statement of the Spanish ambassador, whose communication was extremely vague and general, and related only to the capture of one of the vessels, and that without the particulars. The right hon. gentleman had said, they knew the whole of the claim of Spain before. They did not know it distinctly till at a period subsequent to the budget day. Neither did they know the extent of the preparations of the court of Spain in her several ports, till a very few days since. The right hon. gentleman had said, that he for months had known of the armaments of Spain, and yet in the course of the present session the right hon. gentleman had argued on the propriety of the diminution of the forces of this country, and had expressly contended that we had nothing to apprehend from the court of Spain. That he had given the House the assurance, as he was supposed by the right hon. gentleman to have given, of the prospect of peace continuing, he did directly deny. He took notice of what Mr. Fox had said relative to the armed neutrality, and the Musquito shore, which latter he declared did not appear to him to be connected with that part of the discussion then under consideration. With regard to future arrangements, he had no difficulty in stating that he should think any satisfaction inadequate that did not tend to prevent future disputes.

Mr. *Fox* said, it was a maxim with him never to dispute with a gentleman on his own words, but he could prove from some accidental private conversation at the time, that the right hon. gentleman was understood to have expressed himself on the prospect of peace continuing as he had understood him. With regard to his having recommended a diminution of our forces, he undoubtedly had done so, because he took it for granted that when the King's ministers, without explaining their reasons, came and asked for a certain force, they had no particular ground for such a demand; and as to his hearing rumours of the Spanish armament, he certainly had long heard of it, but then it was merely by way of rumour, whereas the right hon. gentleman had so much better means of coming at the fact, whether the rumours were grounded or not.

Mr. *Pulteney* said, he should vote for the address, but should do so on the ground that Spain was preparing for war. If any insult had been given to this country, it was the duty of the nation to require redress. He, however, much doubted, whether in the facts stated in the message there was any insult on the part of Spain. The message stated, that Spain had asserted rights on the North-western coast of America. That was clearly a question of right and not of insult. In urging such a claim, he thought Spain totally wrong; but as to insult, she appeared to him to have offered none. Possibly the ships might be employed in something improper, and whenever any contraband trade was carried on it was customary to seize them. Even on our own coasts, when vessels did any thing contrary to law we seized them, let them belong to what country they would. The Spaniards had restored the ship, and expressed that they wished to be on good terms with this country. That was not like insult. With regard to the question, whether we should insist on carrying on trade on the North-west coast of America, that was an important question. The fur trade he knew had proved good at first, and a great deal of money had been made by it, but he understood that it was much

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decreased in point of advantage, late adventurers having found, that they were obliged to buy their furs dearer, and sell them cheaper. As to the Southern whale fishery, that certainly was a serious consideration, and what ought by no means to be abandoned. In respect to the ships, how were we certain that our vessels did what we could wish them to have done? All these facts remained to be explained. In the mean time, he saw nothing like insult in the conduct of the court of Spain, and thought we had acted prematurely in insisting upon the restoration of the ships prior to discussion of any kind, because it was begging the question; since, if they had the right thus claimed, the seizing of the ships was nothing but the exercise of that right. On account of Spain's arming, however, he repeated it, he gave his vote for the address.

Mr. *Grey* hoped the House would concur unanimously as to the question. He said, he felt with his right hon. friend (Mr. Fox) the difficulties of disputing with any gentleman on words used by himself. But he knew the impression made on him, and he believed the real impression on the majority of that House was, that positive assurance had been given by ministers, that there was a prospect of the blessings of peace continuing to this country. The right hon. gentleman had resorted to an "if." "If" was said to be a "peace-maker," and he believed no person was ever more indebted to an "if," than the right hon. gentleman. For his part, he thought the moment awful. As to Spain, he thought that enemy alone not able to contend with us, but he knew that a spark of war was likely to extend to a flame, and a general conflagration frequently arose from a single spark; he hoped, therefore, we should not light up that spark. With regard to the claims of Spain, he was of opinion that they ought to be settled in the way referred to by the right hon. gentleman. With the address he most heartily concurred.

Mr. *M. Montagu* said, he had taken notes of what Mr. Pitt had said on opening the budget, and was clear that his right hon. friend had expressed himself with respect to peace and war as he had explained himself to have done.

The address was agreed to *nem. con.*

Mr. Fox then moved for an account of the amount and value of the trade to Nootka Sound.

Mr. Secretary *Grenville* guarded the House against the expectation that the motion would bring before them the value of that trade, the exports being few, and the furs all carried to the China market.

Mr. *Burke* said, that although the moderate, firm, and temperate language of the address, and of the right hon. gentleman's speech, was entitled to much praise, yet there was something in both, which left an opening for discussion now and afterwards, and would give room for ambiguities and difficulties. The word "adequate," prefixed to "satisfaction," had better have been omitted, because that epithet left the matter open to a diversity of opinion. With regard to the trade on the north-western coast of America, we should find it difficult to value it properly. It might, indeed, be with propriety overvalued, for the sake of negociation, with a view to give up something afterwards; but, as far as he knew of the matter, he should conceive that the court of Spain had no more exclusive right to the trade on the north-western coasts of America than ourselves. The right appeared to him to lie with the natives. Mr. Burke recommended accommodation, if it could be obtained, consistently with national honour, declaring, that as we never ought to go to war for a profitable wrong, so we ought never to go to war for an unprofitable right; and therefore he hoped that the intended armament would be considered not as a measure calculated to terminate the war happily, but to enable ministers to carry on the negociation vigorously. We were to prepare for the worst event, and even to risk the battle, if, unfortunately, such a risk should be absolutely necessary. He wished, however, if possible, that the war might be avoided. He had seen three wars, and we were gainers by neither; for a war must not be looked to as likely to pay its own expense. By the first war to which he alluded, the nation added to its glory, but it lost in point of strength, and came out more weakened than it went into it. The second war was terminated less honourably; but if with less reputation, the war put us to less expense; and the third war, we lost both ways. In a great, gallant, and spirited nation, he hoped that there would be as much cause for moderation, as there was ground for satisfaction in our ability and our resources. That was the moment when a country did itself most honour,

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and proved its magnanimity the most clearly, by adopting moderation in proportion to its power. He wished all nations to be as much at peace as possible, because he thought that the balance of power in Europe required, that no one state should have an unequal and inordinate superiority. Besides, what had we to contend for? Extent of dominion would do us no good; on the contrary, if all the territories of Spain abroad were thrown into the scale of England, he did not think it an object for a wise man to desire. The effect would prove to us, what it was at this moment to Spain; we should be the weaker for our accumulation of distant dominion.

Mr. *Pitt* begged that when the House adverted to the value of the trade to Nootka Sound, they would not lose sight of the present question. They were considering of an injury done and the necessity of obtaining satisfaction; and it would depend on the degree of the spirit of conciliation manifested by the court of Spain whether we could adhere to a spirit of conciliation or not. It must be desirable to terminate the matter amicably, if it could be so terminated, consistently with the dignity of his majesty's Crown, and the interests of his people. Mr. Pitt recommended the postponing of the motion for the present.

Mr. Fox consented to withdraw his motion, and then made another for a state of the armaments of Spain.

Mr. *Pitt* said, he was under the necessity of objecting to that motion, because he did not think it prudent to lay such a statement on the table. He had already stated that the information of the extent of the preparation in Spain had been received by ministers within a very few days only, and any more particular detail of the intelligence at the moment, perhaps, of beginning a war, might prove improper.

Mr. *Fox* said, he had, from the first part of the right hon. gentleman's speech, been induced to think that he had moved for an account of our own preparations, and not those in the Spanish ports. He did not think that the court of Madrid could get much information from the state of preparation in their ports being explained in London. He had sat in parliament many years, and had made several motions of that sort, some of which had failed, but never on the ground of their being mischievous.

Lord *Mulgrave* said, that last war much inconvenience had resulted from motions of that kind being complied with, since they must either give an account which must lead the House to form a false judgment, or betray the channel through which the intelligence was obtained.

Mr. *Fox* asked what mischief could be produced by a minister's saying, on such a day in April such was the state of the armament going on in Spain? He was the more anxious to know the result of the information on that head, as it unfortunately happened that we had no minister, or *chargé des affaires*, at Madrid, while matters so important to the interests of this country were transacting in Spain.

Mr. *Dundas* did not think it right to give our enemies the extent and accuracy of our information relative to their preparations, because if a public declaration were made to that House of the exact state of the armament going on in Spain, it would require no great penetration for Spain to discover the extent, object, and application of our armaments.

Mr. *Burges* said, that the observation, that we had no minister at Madrid was not accurate. Mr. Merry had resided at Madrid for some time, and a gentleman better qualified for his situation, perhaps, could not be found. Mr. Merry had, on the present occasion, sufficiently evinced his activity and ability, and Mr. Burges said, that happening, from his official situation, to have an opportunity of precisely knowing the fact, he was glad to have it in his power to do the merit of that gentleman justice.

The motion was negatived.

Bill for altering the Sentence of burning Women, &c.] May 10. Sir *Benjamin Hammet* rose to make a motion, relative to the sentence of Burning Women convicted of certain crimes. He stated, that it having been his official duty to attend on the melancholy occasion of seeing the dreadful sentence put in execution, he then designed to move for leave to bring in a bill to make some alteration, but he did not choose to venture the measure till he had consulted and received the approbation of some high authorities in the law. The judgment of burning alive, applied to women for certain crimes, was the savage remains of Norman policy, and disgraced our statutes, as the practice did the common law. He maintained, that the sheriff who did not execute this sen-

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tence of burning alive, was liable to a prosecution; but he thanked Heaven that there was not an Englishman to be found, whose humanity did not triumph over the severity of the sentence, and who did not choose to run the risk, rather than attend to the letter of the judgment. He repeated the sentences verbatim which were given upon men and women for the same crime. Upon men; "to be drawn upon a hurdle to the place of execution, and there to be hanged by the neck till he is dead." Upon women: to be drawn upon a hurdle to the place of execution, and there to be burned with fire till she be dead." He desired the House to consider the influence of the husband upon his wife, and that, in many other crimes, the laws made provision for it. At this moment, a woman was in Newgate convicted of coining; but the learned recorder had not made his report. The sheriff had applied to him that morning, expressing his hopes that the bill might pass into a law. It had been proved by experience, that the shocking punishment did not prevent the crime. Formerly the men were sentenced to be quartered, in addition to their other punishment, and he supposed it arose from delicacy that the women were to be burnt; but now, the sentence of quartering was not the judgment, and all for which he contended was, that women should not receive a more dreadful punishment than the men, who might influence them to the commission of the crime. He would use no more arguments. He trusted that the bill wanted not the force of eloquence to cause it to be received; for he had no doubt but the House would go with him in the cause of humanity. He then moved for leave to bring in a bill, "for altering the sentence of burning women attainted and convicted of certain crimes, and substituting other punishments in lieu thereof."

Mr. *Pye* seconded the motion.

Mr. *Sheridan* wished the motion to be worded more generally, and that the bill might extend to all women convicted of high or petty treason.

Mr. *M. A. Taylor* suggested the propriety of submitting the bill, in the first instance, to the consideration of the judges, thinking it right, in every attempt to alter the law of the land especially such part of it as related to criminal jurisdiction to consult them.

Sir *Benjamin Hammet* said, that one of the first law authorities in the kingdom had given it as his opinion that such a bill was proper, he had in fact been recommended to bring in such a bill, by several of the judges.

The motion was agreed to.

Vote of Credit—Spanish Armament.]

The House being in a committee of supply,

Mr. *Pitt* rose to move a Vote of Credit for a million, to enable his majesty to act as the exigency of affairs might require. With the large sums already voted, and the use of the money which his majesty would then have at his command, a vote of credit for a million would be sufficient.

Mr. *Sheridan* remarked, that the right hon. gentleman had expressed a hope, that we should still be able to accommodate matters between the courts of Madrid and Great Britain, without being driven to the necessity of going to war; a hope in which they must all most cordially concur. But although it was right to follow up their address to his majesty with a vote of supply, he wished to know if, on the event of war being commenced, the right hon. gentleman would find it necessary to have a committee of supply again.

Mr. *Pitt* answered, that there were two views in the contemplation of government. The one, a hope, and that, he believed, not altogether irrational, that the matters in dispute between us and Spain might be accommodated, without going to the extremity of a war: and the other, that a war might be unavoidable. The vote of credit for a million was calculated to answer the least desirable alternative of the two should we be disappointed of our expectations.

Mr. *Fox* asked, whether the papers which the House had ordered, would give the dates of the earliest intelligence received by ministers of the capture of the ship in Nootka Sound? Since he had last troubled the House on the subject, a report had gone abroad that a communication of the fact was made to ministers by the Spanish ambassador, so early as the 10th of February last. He wished to have the dates of the communication correctly, in order to see whether the situation in which the nation unhappily stood, was a misfortune not to be avoided, or whether, if a public representation of it to the House, and a preparation for armament had been made at an earlier mo-

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ment, the calamity might not have been prevented. He had no doubt but this information would be given, when his majesty should graciously be pleased to give directions for it, in compliance with the address of the House: and if it should appear that the communication had been made so early as the 10th of February, undoubtedly the surprise of the House at the conduct of ministers would become increased.

Mr. *Pitt* answered, that he had not conceived that the motion of the right hon. gentleman extended to the communications made by the Spanish ambassador: if he had, he should have stated his reasons for objecting against it. He understood it to refer merely to the intelligence received from Madrid, and so it would be found by his majesty's answer, it had been generally understood by his ministers. If any thing farther was wished for, the best way would be for the right hon. gentleman to make a distinct motion for it.

Mr. *Fox* observed, that if the report which he had heard was founded, the ambassador's communication being the first intelligence, was most important, and he wished to have it, in order that they might learn whether they were likely to be plunged into a war by accidents not to be guarded against by human foresight, or through the supineness of his majesty's council.

Mr. *Pitt* said, that whatever temporary triumph the right hon. gentleman or his friends might think they had obtained by goading ministers with questions such as those now in agitation, he should not, either by personal attack, or personal insinuation, be provoked to do what he did not think proper or consistent with his duty to the public.

Mr. *Fox* answered, that there was nothing like triumph in the matter. He had mentioned a report that a communication had been made to ministers on the 10th of February, but he begged to have it understood that he was by no means pledged for the truth of it.

The resolution was agreed to.

Mr. Burke's Resolutions respecting the State of Mr. Hastings's Impeachment.] May 11. Mr. *Burke* rose. He said that he flattered himself that he might, without vanity, presume to press upon the recollection of the House, the circumstance of his having been employed, for the last ten years of his life, in diligently inquiring into the affairs of India, the House having, in its wisdom—and wise indeed was the procedure—taken the proper means to know whether any disorders existed, and whether any offences had been committed. After much investigation, the House had thought proper to adopt two means of remedying those disorders in future, the one by applying regulations for the prevention of farther grievances, the other by instituting prosecutions for offences by a penal law. How far these means had proved successful was not yet ascertained, though he should hope that they had succeeded, in the first instance, and he trusted that they would in the other, when, by their perseverance and patience, they should obtain judgment against the great delinquent under prosecution before the House of Lords. That the prosecution was a proper one, the House had resolved. Whether they were to avail themselves of the necessary means of rendering it effectual, or whether the opinion formed by them was to be ratified in another court of justice, was not a question to be decided there. It was in vain to talk of the necessity of bringing a delinquent to public justice unless the proper means were given to do it with effect. We were going to war with one of the greatest monarchs in Europe. Were we not, then, to conduct the war of the virtue of the country against its vices, to punish the pirates and delinquents, and were we not to be engaged in a war with an individual who was one of the greatest of those delinquents, if he was a delinquent at all? Mr. Burke observed that he had the testimony of one of the best and least questionable witnesses to prove the fact of gross mismanagement in our former government in India. He then referred to lord Cornwallis's letter, dated March 12, 1789, and read those passages in which his lordship states his opinion of the prospect which he expected to arise in consequence of the principal landholders and traders being restored to the power of supporting their families with decency. It was lord Cornwallis who drew this picture, and by the word "restored," he must have alluded to the former government, to that of Warren Hastings. Mr. Burke added, that they had that forenoon, been in Westminster-hall for the sixty-third day, and, reckoning three hours each day, they had spent one

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hundred and eighty-nine hours there, which was nine hours longer than a committee was allowed to sit in that House. In that time the House might well exclaim, that substantial justice ought to have been obtained. There were, it was to be remembered, three parties in the cause, the first was Mr. Hastings, the next the public, and the last the managers themselves. The grievances sustained by each, in consequence of the trial, were to be considered and relieved; but first of all, those of Mr. Hastings; and let them see what had been the conduct of that gentleman. On the 9th of February, 1789, Mr. Hastings presented a petition to the House of Lords, and had first complained, that his trial had lasted a year, which, with regard to the period from its commencement, was true, but not true in the light of a trial going on *de die in diem*, for a twelvemonth. Mr. Hastings had next complained, that several noble lords, his judges, had left this world in the course of nature. That was a circumstance which the managers could not help, nor had he ever before heard that it was among the privileges of peers of parliament to escape paying the debt of nature. But neither the managers nor that House had the power of preventing their death, much as they must regret that the noble lords should die. Mr. Hastings next talked of his witnesses having gone to India. If he had let them go there, it was his own fault; the managers could not help it; and all he could observe was, that the trial must take its course, and nature must take hers likewise. His own health, Mr. Hastings had next said, which a long residence in India had injured, required the benefit of foreign air, which the trial deprived him of the opportunity of taking. The fact Mr. Burke denied; nothing could hinder him from enjoying foreign air, if he would settle with his bail for that purpose. Again, Mr. Hastings complained, that he was taken out of his rank in life, and deprived of those enjoyments which other men might command. He could not believe it. They saw him at balls, at operas, at plays and at assemblies. [A cry of Oh!] Mr. Burke said, he would re-assert the fact in spite of that Oh, which, he was persuaded, was not the Oh of sensibility. Besides, when Mr. Hastings declared that he suffered hardships, was it not competent to the managers for the Commons of England to prove the contrary, and that he enjoyed all the comforts of life, and shared in its rational pleasures? Long might he enjoy them! He did not regret his enjoying them; he had only asserted that Mr. Hastings did enjoy them. And he believed, if the ease of the life of Mr. Hastings were compared with the labour of his (Mr. Burke's) it would be seen which of the two was the best entitled to complain. He wished, therefore, that gentlemen who complained of the hardships which Mr. Hastings endured, would justify what they said on the subject, on their legs, that he might have an opportunity of answering them. A man upon his trial undoubtedly could not be quite at his ease; it was inseparable from the nature of the case. But Mr. Hastings complained of the mode of trial being so expensive and his fortune so small. Mr. Burke here referred to Mr. Hastings's petition, a copy of which he held in his hand, and affirmed, that if it were true that the House deprived Mr. Hastings of the means of his existence by their mode of conducting the trial, they were violating justice. But let them see how the fact stood. It had been stated, that Mr. Hastings's fortune was under 50,000*l*., that 30,000*l*. was spent during the first session in getting the records copied, and that 20,000*l*. more was probably spent during the course of the next session. If so, Mr. Hastings could not have bread. The context seemed to say, that the materials cost him 50,000*l*. What, then, must the superstructure cost him? Mr. Hastings had told a noble lord, who was stunned at the assertion, that he might judge of his expenses by the single fact, that copying papers at the India-house alone had cost him 3,000*l*. Mr. Burke declared that he had been and desired the proper person to tell him what it had cost Mr. Hastings at the India-house; when he was told, not one farthing; for every thing was copied gratis, though he could not say but that some little civility might have been offered to the clerks. Mr. Burke declared, that Mr. Hastings gained neither credit nor compassion by stating what was not true. The managers were ready to enter into every particular asserted by Mr. Hastings in his petition, and they would undertake to disprove the allegations. But whether what he had alleged was true or false, Mr. Hastings was entitled to justice, and ought not to be kept one moment longer

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in suspense than was unavoidably necessary. He should have thought that Mr. Hastings, who stated all the grievances and hardships alleged in this petition, would have been glad if they had given him the opportunity to clear away any imputation, and to have refuted any one charge; but that he rejected, and therefore the assertion, that he had used every rational mode of shortening the proceeding, was not true. Whatever was the hardship which Mr. Hastings suffered, Mr. Burke contended that it was his own, and not the hardship imposed on him by the managers. There were three ways of a man getting off from a trial; the first, by an honourable acquittal; the second, by an acquittal; and the third, by an escape effected by procrastination. It was evidently the aim of Mr. Hastings to attempt to escape by procrastination, and thus, in the end, baffle the House of Lords. However, the managers of the prosecution might fail in knowledge of the law, or in dexterity, no man, he believed, would say that they were deficient in zeal or in exertion. They had throughout been solely actuated by a desire of obtaining public justice, and they wished to put some speedy end to a prosecution, which had already lasted longer than the longest election committee. By the conduct of the defendant, it was clear that he wished to gain time. This was evident, from his insisting that every paper should be read at full length, and from other symptoms. So that Mr. Hastings appeared like a fox, who, when hunted and pursued, endeavours to elude his hounds, and try which has the longest wind. Mr. Hastings seemed to think, that the House, tired and sickened of the business, would abandon it altogether; he would submit to the House, however, whether it would become their dignity to act in that manner, and whether they ought not to show that they had the power to carry on a prosecution effectually, after they had once thought it a debt due to justice that it should be instituted; he submitted it also to the consideration of the House, whether the best means to prevent the chicane so obviously practised, would not be to let the party positively discover that he had no hopes for an escape, and that the House would not be satisfied till justice was obtained. To effect this, the House had first, to put the prosecution within a manageable compass, and next by a resolution to declare that they would not be baffled. Mr. Burke mentioned that lord Somers, lord Halifax, and some of our best men, had been impeached, and he stated the nature of the proceedings upon these occasions. He mentioned also the authority given to the managers of the impeachment of lord Macclesfield, and on this he had chiefly grounded one of his motions. Mr Burke now moved his two resolutions as follow:—

"1. That this House, taking into consideration the interruptions occasioned by the occupations of the judges and the House of Lords, as also the impediments which have occurred, or may occur, in the course of the trial of the impeachment of Warren Hastings, esq., doth, without meaning to abandon the truth or importance of the charges, authorize the managers of their said impeachment, to insist only upon such and so many of the said charges as shall appear to them the most conducive to the obtaining speedy and effectual justice against the said Warren Hastings."

"2. That the Commons of Great Britain in parliament assembled, from a regard to their own honour, and from the duty which they owe to all the Commons of Great Britain, in whose name, as well as in their own, they act in the public prosecutions by them carried on before the House of Lords, are bound to persevere in their impeachment against Warren Hastings, esq., late governor-general of Bengal, until judgment may be obtained upon the important articles in the same."

Mr. *Pitt* thought that the motion so evidently tended to the furtherance of public justice and the advantage of the party accused, that there could be no difference of opinion on the subject. When the prosecution was first instituted, no person imagined that it would have gone to the length it had done, and all must see that unless some step was taken, the length of the trial must be indefinite, and possibly the ends of public justice be defeated. The House owed it to their own honour, that means should be taken to give a proceeding of so much importance, efficacy and effect. He thought the first motion perfectly unobjectionable, the second did not appear to him so absolutely necessary, yet if the right hon. manager thought it material, he had no intention to resist it.

The *Master of the Rolls* thought it would be more advisable to make the mo-

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tion general, and to follow that which had been adopted in the case of lord Macclesfield. He confessed it was not so ably worded as the right hon. gentleman's, yet he conceived it preferable, as there was no occasion to assign a reason; the doing of which would be liable to comment.

Mr. *Sheridan* contended, that the difference of the circumstances of the two impeachments made the distinction between the two motions sufficiently clear. In the impeachment of the earl of Macclesfield, the managers were armed with the authority in question, in the first instance: it was therefore unnecessary to assign a reason. The learned gentleman should observe, that in the present impeachment, they had now passed almost three years without obtaining their object. On which special account, it was necessary to assign a reason for giving fresh authorities to the managers. His right hon. friend's motion did not appear to him objectionable; it conveyed no insinuation; for surely it was no insinuation to state that the judges were obliged, in discharge of their official duty, to leave town, on the business of their several circuits.

Mr. *Wigley* declared, that he had often admired the unabated ardour with which the managers had returned to the charge, after the decision of a question against them; he must, however, object to the words "other impediments," because it went to impute delay to Mr. Hastings, which he did not think had been the fact.

Mr. *Fox* said, that the present was not the day to discuss the conduct of the managers; but when that day arrived he should be happy to enter into a justification of their conduct, and to contend, that in no one instance had the managers put a question which they though beforehand would be objected against. He would say there, what he had said more than once in another place, that the delay had been owing to the want of publicity in pronouncing the grounds and principles of the decisions of the House of Lords. That want of publicity was to be lamented, because not knowing the grounds and extent of the principles on which the decisions went, it was impossible for the managers to know how far the next questions which they intended to put; might, or might not, militate against those principles.

Major *Scott* said:—I rise, Sir, not to offer my sentiments upon the motion, but to take notice of something that has fallen from the right hon. gentleman who made it, and I do assure you that I came into this House with a firm determination to take no part whatever in the business of this day, and therefore I fixed myself in the gallery, that I might not be tempted to change my purpose; but the right hon. gentleman has rendered it absolutely impossible for me to remain silent, by his extraordinary misrepresentation of two remarkable circumstances. The first is, his assertion that Mr. Hastings told the noble lord, who presented his petition to the House of Lords, that he had paid 3000*l.* for copying papers at the India House: that the gentleman had inquired at the India House, and found the story was false, as Mr. Hastings had got all his papers for nothing. Sir, I affirm that Mr. Hastings never saw the noble lord alluded to for many months before, nor form any months after that petition was presented; that Mr. Hastings never had any conversation with that noble lord directly or indirectly on the subject of his petition; and I am sure the right hon. gentleman never was told a word about the matter by that noble lord. I believe the manager heard the circumstance he mentioned from another lord; but whether it was from a lord or a commoner, I will state the fact. When Mr. Hastings determined last year, to petition the House of Lords, he requested me to carry the petition to a noble lord, who afterwards presented it. On his reading the petition, he expressed his surprise and concern at the magnitude of the sum that had been expended. I entered into conversation upon it with his lordship, and told him that his surprise would cease, when he considered that the twenty articles embraced almost every act of a long public life; that the managers had never given the least intimation of what charges they would sustain, or what they meant to abandon; that, therefore, Mr. Hastings was obliged to be prepared with long briefs and arrangement of evidence upon each, and I was sure it would have cost him 3000*l.* had he paid for the papers from the India House, or that it would have cost him so much to copy them. And this was a calculation made by me—not from any information that I received from his solicitors, but upon what I conceived to be very good grounds; for I got a copy of the mana-

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gers' speeches, in the first session, for a friend of mine, which has since, I believe, been sent to India. With those speeches there was a small part of the proceedings, but I paid 40*l.* for them, at the rate of a shilling a sheet, or page; therefore upon this calculation, I am morally certain that it would exceed that sum; for I think I speak correctly, when I say that the papers upon the revenue article alone, where Mr. Hastings is brought in a court of justice to defend systems adopted by the king's ministers, and approved by this House, fill eight large folio volumes. This is the fact, and I will take upon me to say, that the noble lord who presented Mr. Hastings's petition never told the gentleman, nor any man living that he conversed directly or indirectly with Mr. Hastings upon the subject; and I am not a little surprised that the right hon. manager should at this time of day detail such a story to the House; for I contradicted it in the fullest manner, with my name to it, above a year ago, and if there is any man, lord or commoner, who will call my argument in question, let him do it, and I will answer him; it has never yet been contradicted; but as for Mr. Hastings, he has nothing at all to do with it.—The next point to which the gentleman alluded is, what once fell from me in this House relative to Mr. Hastings's fortune. That also I am ready to state as it happened, and to meet the whole world upon the truth of it. After three or four charges had been voted in the House, the right hon. gentleman took notice one day, that a considerable quantity of stock had been sold out that morning, and followed this information with some intimation, that it would be necessary to take measures respecting Mr. Hastings. The impression which naturally rose in gentlemen's minds was, that Mr. Hastings had sold his stock. I stated then that he had not more than 14 or 1500*l.* in the stocks, and that his fortune, which was not more than 50,000*l.*, was upon certain mortgages. I abide by the truth of my statements; for, a very short time after Mr. Hastings arived in England, I gave to one of the first characters in this country a detailed account of his fortune, and where every shilling of it was, amounting then, I think, to about 65,000*l.*, and it was signed by his attorneis. There was also a note to it, that there was some property in Russia, not above 3000*l.*, and considerable sums due to him in Bengal, that had been lent at different times, to some English gentlemen. I stated very fairly, that some of these sums might be, recovered, but the probability was certainly against any considerable sums being received. It has happened, that more has been recovered than I calculated upon, but not so as to make a difference to any considerable amount. The right hon. gentleman doubts whether Mr. Hastings has lost any material evidence by death; but he knows that lieutenant-colonel Eaton died during the recess before the last, and he was a very material witness; but I hope the right hon. gentleman will not go from his word, but consent to examine other evidences now, who are in peculiar situations. One of these gentlemen, colonel Poteer, came over last year, and this year from Switzerland. It would be of infinite consequence, indeed, to the cause of truth to examine him: for I am convinced that the present impeachment would never have been voted, if that gentleman had been in England, and examined at this bar. As to the present motion, it appears to me to be so perfectly nugatory and harmless, that I shall not oppose it: for it is of no consequence as to what we now vote about this trial. The court does not meet again till the 18th of May. The House, upon any speculation, cannot continue to sit long enough for much farther progress to be made; and I am sure that after the prorogation, we never shall meet again in the present parliament, so as to go into Westminster-hall, if we should live to assemble at all again. Under these circumstances, any vote we may now come to must be of very little consequence.

The *Solicitor General* objected to the motion, as conveying an insinuation adverse to the party upon his trial, which he did not think sufficiently grounded by any thing he had heard. He should therefore take the sense of the House upon it.

The House then divided:

Tellers.

YEAS	Mr. Sheridan - - - Mr. Anstruther - -	48
NOES	Lord Muncaster - - Mr. Pole Carew - -	31

Mr. Grey's Motion for Papers relative to the Dispute with Spain.] May 12. Mr. *Grey* rose, in consequence of the notice he had given, to make his motion for papers relative to the present dispute

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with Spain. He considered it to be absolutely necessary, in the present critical situation of public affairs, that the House should be put in possession of every information that could be safely given. He owned he had, upon mature consideration, changed the motion he originally intended to make. As such a question as he should propose, might be construed as if it were designed to embarrass government, and impede their measures, he found it necessary to declare, that no man felt more strongly for the honour and dignity of the British nation than he did. National honour by some was thought a visionary thing, but he hardly imagined it would be professed in that House to be so. He must therefore declare this truism in politics, that a nation without honour was a nation without power; for though it was a trite observation, it was not the less true, that a nation, when it lost its honour, lost its power, whence sprung its spirit, its energy, and its action. Every nation ought therefore to be careful of that honour; it ought not to be guilty of one single mean submission, lest such submission should countenance other attacks upon its honour, a rigorous maintenance of which was the most likely means of preserving the blessings of peace; and however they might differ in other points, he was confident there was but one feeling where British honour was concerned. Taxed as we were, almost beyond bearing, and not having yet got rid of the burthens occasiond by the last war, he could not see, without concern, the prospect of our being plunged into another, which, victorious as it might ultimately prove, could not fail of occasioning an additional burthen on the people; it became, therefore, the indispensable duty of the House, as the guardians of the property of the nation, to consider well all the circumstances that had led us into our present situation. He reprobated the idea of granting a blind and unlimited confidence to any minister; he was willing to give a rational confidence, founded on a review of the past conduct of government [A cry of Hear, hear!]. He was happy to perceive the applause from the other side of the House. He was induced to move for the papers he was about to call for, that it might be seen whether we had been hurried on to the eve of a war, by the rashness, by the credulity, or by the inattention of ministers, or whether it had arisen from circumstances which no human foresight could have prevented. If our present situation arose from the latter, the minister must be obliged to him for the opportunity given him of showing the fact to the public, and at once, by so doing, clearing up every doubt. At present there appeared to his mind to be ground of strong suspicion and distrust of the present cabinet. When he considered the language held on the budget day by a right hon. gentleman, and the particular phrases held by the right hon. gentleman when he described the Southern whale fishery as a new source of wealth, and talked of the skill of our seamen, in extracting gold out of the bowels of the sea, he could not but persist in asserting, that the whole of the right hon. gentleman's speech gave the general impression of a long continuance of peace, though at that time the right hon. gentleman knew of the capture of the British vessels, and the statement of the claims of the court of Spain: the right hon. gentleman had not been warranted, therefore, in holding out to the public the impression he did, and ought to ask pardon of that House and of the public for it. The right hon. gentleman kept the capture of the vessel a profound secret, while he was making money bargains in a way more like that of an auctioneer than a minister. He knew the circumstance on or about the 10th of February, and had been, in his opinion, guilty of a criminal concealment in not acquainting the House therewith prior to the day of the message. Upon these grounds he wished to move for the production of the representation of the Spanish ambassador to our court on the subject, with the dates when such information was received. By them the House would be enabled to judge whether the minister had taken the necessary measures as early as he ought to have done: and whether he had not been guilty of the most culpable neglect, by suffering Spain to continue increasing her forces without a single inquiry into the purposes for which they were intended. He then moved, "That an humble Address be presented to his majesty, that he will be graciously pleased to give directions, that there be laid before this House, an account of the communication made by the ambassador of his catholic majesty by order of his court, and referred to in his majesty's most gracious message, of the 5th instant, and the date of the said communication."

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Mr. *Lambton* rose to second the motion, in justice to his constituents. Smarting as we were under the effects of the last war, and upon the point of entering into another, it was surely the moment for consideration, and warranted the House to call for every information in their power to obtain. He saw no danger whatever in the production of the paper moved for, nor did he imagine that danger could arise even by the production of the last remonstrance from Spain. There could be no danger to the country in producing the dates moved for, though there might be to the right hon. gentleman, who might thereby be tried and convicted of improper and highly censurable secrecy. The ships in Nootka Sound had been captured by a fleet of which it was the duty of ministers to watch and guard against the motions. Should Jamaica be captured at this time, the blame would justly fall on ministers, for not having known earlier the state of the navy of Spain, and the positive destination of their fleet. He insisted upon it, that the wantonly involving ourselves in hostilities was the readiest mode of precipitating a national bankruptcy, which though it had proved of great and essential benefit to France, could not fail of being ruinous to England. He declared he could not help feeling alarmed at the prospect of a war and its consequences. In England every thing was to be dreaded from a national bankruptcy. He compared what had happened in France to a storm shaking down an old, ruinous, and ill-constructed fabric; whereas here, a similar disaster would be like an earthquake swallowing up all at once a well-erected and beautiful building, which had for ages been the admiration and envy of the world.

Mr. *I. H. Browne* admired the eloquence of the hon. gentleman, and agreed with him that honour was the support of the nation, and ought tenaciously to be maintained. He was heartily a friend to peace, but could not agree that this country was not able to go to war. He thought this country never had gone so justifiably into a war as she would do with Spain at this time, nor with such advantages arising from the prosperous state of the country. The minister who could be led to the giving of papers at such a moment as the present, would be destitute of those qualities which could alone enable him to carry on a war with success—courage and prudence. The right hon. gentleman had proved himself an able minister in time of peace, and he hoped he would convince the world that he was as well qualified for a war minister. In a minister's responsible situation, to disclose secrets for the sake of getting popularity, would be both imprudent and pusillanimous.

Colonel *Phipps* said, that if the hon. mover and seconder felt as they said they did, the necessity of maintaining the honour of the country, he was astonished that they could turn their attention from the main object, to collateral circumstances. If they were convinced of British vessels having been captured, and their crews carried into captivity, what reason could they have against the country taking up the quarrel; endeavouring first by negociation to obtain ample concession; or, if the insult was persisted in, to go immediately to war? He thought the language of the hon. seconder, calculated to undervalue the resources of the country, and consequently to hold out encouragement to our enemies. If the motion should be agreed to, gentlemen might, upon the same grounds, move for the whole treaty piece-meal, and make the House the negociator instead of the king, with whom the power was constitutionally lodged. He vindicated the conduct of Mr. Pitt in respect to the time at which he had brought forward the information. The minister would have been blameable to have advanced it during the prospect of a remedy; and had he advanced it prior to the vigorous steps taken for the naval armament, the opportunity of a speedy supply of men would have been lost. One would imagine from the arguments of the mover and seconder, that the minister meant to abandon the Southern whale fishery and the trade to the North-western coasts of America; whereas his efforts were all directed to preserve both.

Mr. *M. A. Taylor* begged the House to recollect how the country stood within a few days, and to recollect also, that the substance of the King's speech was peace, as well as the minister's language on the budget day. With regard to the preparations by Spain, he had long heard of them in the city, and had been asked whether we were going to war, when the only answer he made, was, "Wait till the minister opens his budget, and then you'll see." And when the budget was opened, he did not understand the minis-

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ter to give a hint of a probability of war, upon which all in the mercantile line were satisfied. It was extraordinary that we had no ambassador in Spain; and the more so, as our having an ambassador at the Hague, was in a great measure the cause of our success in that negociation. If this country paid ambassadors, they paid for their abilities, and an ambassador should have been at Madrid to have taken care of the British interest. The papers ought to be produced, to prove whether ministers deserved praise or censure.

Mr. *Martin* would vote against the motion, unless it was shown that the production of the papers would do us no harm.

Mr. *Rolle* was astonished to find an hon. gentleman, who had so large a stake in the country, the vehicle of such a motion: he should not have wondered if it had been made by the right hon. gentleman opposite (Mr. Fox). Did gentlemen consider the danger of the motion?

Mr. *Windham* said, that though some time had been spent in the debate, not one good reason had been assigned against the motion. It had been stated, he observed, as a matter of courage and prudence for ministers to throw themselves on their character, and to preserve the most unexampled silence. They had, he owned, seemed to have carried that principle to perfection: whereas, if there was ground of objection to the motion, reasons ought to be assigned against it; for his hon. friend had supported the motion with reasons, and those pretty strong ones. Certainly there might be danger in producing papers in some particular instances, yet the probable danger must arise out of the peculiar circumstances of each particular case. If papers were always refused under such circumstances, there was an end of their best function, the power of prevention. An hon. gentleman had said, that the production of the papers might affect the measures now going on. If his majesty's ministers would declare that, let them have the date without the paper. Gentlemen had said that this was not the time for inquiring into the conduct of ministers. Now he should conceive there was no time so proper as the moment when the country was on the eve of a war. According to the other argument, ministers would have nothing to do but to involve the country in a war, and make that war a reason for supporting them, let their conduct be ever so blameable.

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Mr. *Wilberforce* thought that not one good reason had been advanced in support of the motion, though strong and cogent ones had been offered against it. It was astonishing, he said, how different things would strike different people. In times of war, if he distrusted an administration, he declared he would not be for inquiring into their characters, unless he was sure it would do no harm; and in like manner, the House ought not wantonly and lightly to go into the inquiry of the conduct of ministers. If the House were not unanimous in their support of an administration in such times, they could not act with that firmness with which they otherwise might act. He deprecated the production of the paper moved for, which, if admitted, would lead to the production of the whole of the negociation; whereas, when that was ended, the inquiry might commence with propriety. The conduct of administration did not warrant distrust. He begged the House to remember what their conduct had been in the dispute between France and Holland, which was similar to the present: that negociation had been carried on during a recess, but he was inclined to believe, that if the parliament had been sitting, and papers had been moved for and produced relative to that negociation during its progress, it would not have ended as happily as it did.

Mr. *Fox* began by saying, that when the hon. gentleman gave his opinion so different from the reasons on the one side of the House, and when he considered that there were no reasons on the other, he did hope the hon. gentleman would have pointed to something his hon. friend had said, that could by fair argument have been refuted; because it must have struck the House, that what his hon. friend had said of the motion was perfectly right, whereas the hon gentleman who had spoke last, had spoken as long on the subject as any gentleman on that side of the House, but instead of assigning a reason for his arguments, had gone into a kind of general panegyric, till he seemed lost in the clouds of praise of the right hon. gentleman's good character, and was totally out of sight of the question. Mr. Fox said, there was no similarity whatever in the cases of France and Holland compared with that of Spain at present. With regard to a minister's relying on his character, the last defence a criminal resorted to was always an appeal

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to general character. Mr. Fox took notice of what Mr. Rolle had said of his wondering that an hon. gentleman who had so large a stake in the country, should have made such a motion as the present, and had declared, that he should not have wondered if he (Mr. Fox) had made it. Mr. Fox said, he would have that hon. gentleman know, that there was no minister, no, nor any man of acres, who felt a greater stake in the honour of the country than he did. It was not merely the extent of a man's estates that gave him a superiority over another. Such an idea was a coarse and absurd one. The honour of the country must be supported at all hazards. The honour of a country, and not territory, was the true and only fit cause for going to war at any time; and if he was to take the paradoxical side, it would be to say, that nations should go to war for territory, for profit and commerce, and individuals for honour. He would say, that there never was a war, which did not, in the calamities of it, and the expense, greatly overbalance the profits of the country which occasioned it. A war for the support of the national honour, was the only politic and wise war; and the only way to obtain a lasting and permanent peace, was, by such a defence of national honour. When Spain seized a British ship, that House was bound to resent it, and by negociation or by war, if war could not be avoided, to obtain redress and reparation. —Mr. Fox said, he contended that the proper time for investigating the characters of ministers was, when they were calling for confidence, which was another name for personal partiality. The hon. gentleman had said, they gave greater confidence to a general than to a magistrate, and that they must be profuse in their confidence to what they would be in time of peace. Mr. Fox said, he thought confidence necessary, but that confidence ought always to spring from a knowledge of the conduct and characters of those they must trust [a cry of Hear, hear!]. Undoubtedly, confidence given to ministers must be governed by their conduct. An hon. gentleman who spoke early in the debate, had said, that it was not only more prudent but more courageous for ministers to avoid inquiry, and trust to their characters, than to bring their conduct into general view. Courage, Mr. Fox observed, had been so variously described, that he had heard some paradoxical men say, he was the bravest who suffered himself to be kicked: because he despised the opinion of his adversary, he was called courageous. It had been asked, did they want to move an address to remove his majesty's ministers? This was the most premature question perhaps ever stated. Let them have the information, and they would be able to judge what they ought to do. The first paper being granted, the House would decide whether there was ground for calling for others; but it was a bad argument to refuse the first, lest it should make others necessary. If the paper then moved for would give ground to call for another, by refusing the first, the House were stopped *in limine*. Much general argument had been used on the advantage of unanimity. His hon. friend had not stated, that unanimity was of no advantage, but had said there were two sorts of unanimities. He believed, if unanimity was ever of advantage, it was in resolving to support the national honour; and he had not yet heard a dissentient voice as to the propriety of arming and preparing for war. For arming they were unanimous; but they could not possibly be unanimous in their opinions of the character of any minister. The minister who aspired at the greatest popularity never conceived so wild a desire. That sort of unanimity was to be despaired of but in one view. If unanimity was to be courted by a minister, it must be to know that people were unanimous in their applause of his conduct. Different parts of a minister's conduct might challenge different opinions, and create more or less unanimity of applause. He might think the right hon. gentleman's insidious mode of taxation, and his conduct on various subjects, respecting which, fortunately for himself and the country, he had failed of obtaining his end, were not those points perhaps on which mankind would be unanimous in applause. If it should appear from the papers, that the right hon. gentleman's conduct had been prudent in the present instance, he should have his approbation. In sir Robert Walpole's time it had been said, was it wise to make demands to Spain? He would not enter into the discussion, whether in sir Robert Walpole's time it was or was not. But he would speak to the present application. It had been said, "Wait till this negociation is over." What were the papers, he asked; and

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what did they give? The substance they had already in his majesty's message, but not the date; and if there was no danger in that communication, there could be no danger in the date. Mr. Fox contended, that from the moment of the first intelligence being brought to ministers that the Crown had received an insult, parliament ought to have been acquainted that there was no certainty of peace. The right hon. gentleman did not deal fairly, by giving them in the budget an impression of peace, and stating the Southern Whale fishery as the main pillar of our prosperity, when he knew the foundation of war was laid by that very fishery. An hon. gentleman had said, that if the feelings of humanity did not forbid it, instead of regretting a war with Spain, he should rejoice at it. He must be of opinion, Mr. Fox declared, that the advantages of a cultivated peace were greater than the future and uncertain event of war. He had always been sanguine in respect to the resources of the country, but not so sanguine as to say, that we could easily have a sufficiency of additional taxes without making them an intolerable burthen to the people. An hon. gentleman had said, who shall give limits to a great and glorious people? He pretended not to limit them, but he was not so sanguine as to think that they were boundless. Having thus guarded himself against misrepresentation, Mr. Fox said, he would read the motion he had made for papers, which ministers said were not to be granted. Ministers, he contended, were bound to give good reasons for refusing the papers that House had called for. They ought not to have advised his majesty to have communicated the intelligence of the Southern fishery, unless they had likewise advised his majesty to communicate the message from the court of Spain.

Lord *Mulgrave* said, the confidence claimed was not a blind partiality, but that constitutional public confidence due, not from individual members of parliament, but from that House collectively, as the representatives of the people, to the executive government of the country, in respect to an important negociation then in progress with the court of Spain. It was the prerogative of the Crown to choose its own servants, and those servants were responsible to that House for every part of their conduct; but the House would forget it own functions and assume those of the executive government, if it interfered as the motion obviously tended to interfere. From what the hon. gentleman who seconded the motion had said, it should seem as if it was intended to proceed step by step, to unfold the circumstances of the treaty now negociating. He had ever understood, that ministers were bound to give papers, when they were called for, unless they were able to assign a satisfactory reason for withholding them; and in this case, he thought a satisfactory reason had been assigned; and surely it was wrong to anticipate the effects of a war, and render amicable adjustment difficult, if not impossible.

Mr. *Marsham* could not perceive any danger which was likely to arise in consequence of laying the papers called for upon the table; but if any gentlemen in authority would get up and declare, that they saw danger in giving them, he would vote against the motion.

Mr. *Pitt* rose merely to answer the question put to him by the hon. gentleman, and he wished to be fully understood. He would not say whether there was any specific danger in any one particular paper, because that, he conceived, would be improper; but he had no difficulty in saying, that in his opinion there was great danger in laying any paper on the table of the House, pending a negociation, to the matter of which that paper in any degree referred.

Mr. *Powys* said, he wished to put the question on the same issue as his hon. friend had done, and on that ground to give his confidence to ministers. The right hon. gentleman had said, that he would not give his reasons why he thought the production of the paper asked for, dangerous. They did not want his reasons; it would be enough for him to assert, that it was dangerous, or for the other right hon. gentleman near him, who was high in office. On that issue precisely the question stood, and if either of the right hon. gentlemen would make the assertion, he would vote with them, against his own conviction of the innocent tendency of the papers in question.

Alderman *Sawbridge* said, he thought the ministers of the country had brought it into a bad scrape. If by their treaties with Prussia and Sweden, instead of our natural allies Russia and Austria, the interests of the country were injured, and we were forced into a war, ministers

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ought to lose their heads. He asserted it as a fact, within his own knowledge, that two days before the press began, persons nearly connected with administration had opened policies in the city, giving ten guineas to receive one hundred, if press-warrants were not out in two days.

Mr. *Pitt* said, he should not have answered the hon. magistrate's speech, but there was one part of it which he could not suffer to pass unnoticed; it was the assertion, that, two days before the press began, persons nearly connected with administration had opened policies. If the hon. gentleman could satisfy him who those persons were, he should feel himself under infinite obligations to him, and he would be glad to receive the information either in public or private. Or if any person connected with the hon. gentleman could give him any information on the subject, he should be glad, because it ought to be known who it was that had been guilty of so base and criminal a proceeding.

Mr. *Bastard* said, that it struck him, that if the motion were agreed to, other papers must be produced, and the whole of the negociation now carrying on be laid open, which would be attended with great inconvenience and great mischief to the country. He said, he should hope that some measures of reprisal had been taken, observing, that Spain had some fleets coming home, and was, besides, vulnerable in several parts of her dominions; he trusted, therefore, that ministers would exert themselves; and that they had already taken the necessary steps for supporting the national honour, in case negociation should fail.

Mr. *Grey* rose to reply. He commented with severity on Mr. Hawkins Browne's argument respecting a minister's exemplication of courage and prudence. Several gentlemen, Mr. Grey observed, had argued against the motion, as a motion of censure; whereas the ground on which he had moved the House, had been, that he thought this a proper time for inquiry and information; and as a motion of inquiry and information, he had expressly opened it on the broad principles of national honour. An hon. gentleman had said, that his argument went against any war, let the necessity be what it might; he begged leave to tell the hon. gentleman, that he had used no such argument; he had said, that the necessity being proved, the honour and dignity of the Crown must be supported, but he had lamented that the necessity existed, being convinced that the most brilliant success must be inadequate to the expense of the war; and above all he had lamented that, taxed as they were already, they must again have recourse to the imposition of additional burthens, on that most useful of all descriptions of persons, the labourer and the artisan; for lay the taxes as they would, they must fall on the necessaries of life, or efficient taxes to carry on a war could not be found. Mr. Grey pathetically deplored this as a misfortune which every man must reflect on with regret and concern, and exclaimed with the poet,

> "By heaven, I had rather coin my heart,
> And drop my blood for drachmas, than wring
> From the hard hands of peasants their vile trash."

He next adverted to Mr. Pitt's declaration, that he would not go into the matter of the communication, nor assign his reasons for resisting the motion; all he asked for, was the date of the earliest communication, on which depended the proof whether ministers had done their duty or not. By circumstances, they were able to trace it back within a month, and he conceived the House had a right to know the fact. An hon. gentleman had addressed himself to him, declaring he wondered, that a person who had so large a stake in the country should bring forward such a motion, and had asked if it was the intention of opposition to blow up the flame of war? He begged to ask that hon. gentleman, on what ground did he presume to put that question, and what part of the conduct of those with whom he had the honour to act, had warranted such a surmise? With regard to the declaration that the hon. gentleman should not have wondered, if his right hon. friend (Mr. Fox) had made such a motion, but that he was surprised that he who had so large a stake in the country should have done it, Mr. Grey said, God forbid that he should be one of those who thought a rich man had a greater stake in the interests or honours of his country than a poor one! He agreed entirely with his right hon. friend, that every man had an equal stake in it, and he must add, that those who valued themselves on their estates, seldom had any other superiority to boast of. He hoped to have found any superiority he might have to boast of on

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much better grounds. With respect to his right hon. friend, if a life spent in the service of the public—if the most perfect disinterestedness—if a total disregard of every personal interest and every private consideration, entitled a man in a peculiar degree to the esteem of his fellow subjects, his right hon. friend was so entitled. He desired therefore to renounce all compliments at the expense of his right hon. friend, and if the hon. gentleman offered what he had said with that view, he rejected his compliment with scorn and disdain, and would hold such a man up to the contempt and abhorrence of the public.

Mr. *Rolle* asked if the hon. gentleman recollected a few years since, when he brought forward in that House an inquiry into the conduct of a noble relation of his own——

Sir *William Cunyghame* spoke to order. He contended, that Mr. Rolle was neither speaking in explanation nor to the question.

Mr. *Rolle* said, he conceived when any gentleman was personally alluded to in the House, it was always allowed him to clear his character; he would however say no more than that he retorted on the hon. gentleman the strongest of the strong expressions which he had applied to him.

The House divided:

TELLERS.

YEAS	Sir J. Erskine St. Clair -	121
	Mr. M. A. Taylor - -	
NOES	Mr. Pole Carew - - -	213
	Mr. Rose - - - - -	

Mr. Francis's Motion respecting Appointments of Ambassadors to Spain.] May 13. Mr. *Francis* rose to make his promised motion, relative to the ambassadors sent to the court of Madrid since the peace, a motion which, he said, was obvious, proper, and natural at this time, since it was calculated to obtain information important in itself, and ultimately connected with the present state of affairs between Great Britain and Spain, without betraying any possible secret of state, and which had also the advantage of not being liable to much debate. He saw no occasion for him to trouble the House long, as he did not conceive there existed a ground for rational objection, since the facts that formed the substance of the motion had already been given to the public, though but loosely and separately, and therefore his object was, to bring them before the House collectively, and authoratively. In the mind of every man, who knew not all the circumstances of our situation, but had merely heard as much as his majesty's message communicated to parliament, it would be an obvious question, "What said our ambassador on the subject?" Such a man would say, "You tell me of a communication to our court by the Spanish ambassador, but what says our own ambassador at Madrid? I should rely with greater confidence on what he said, than on what you tell me the Spanish ambassador in London has declared; because on the spot, and thence possessing a knowledge of all that has passed in Spain, and the preparations, which are said to be going forward in the ports of that kingdom, I can, with greater certainty, form an idea of the intention of the court of Madrid, from his dispatches, than from any thing I hear through any other medium." When to a person, so circumstanced, it was said, "we happen to have no ambassador at Madrid at present," he would naturally answer, "I imagine then that accident, illness, or adverse winds occasion his absence." Upon being informed, that his non-residence was not to be ascribed to either of these causes, his resort would be to his confidence in the minister's professed love of economy, and he would suppose that it was upon an economical principle, that it had been thought proper to do without an ambassador at Madrid, and he would look to the savings of the year for the amount of the expense. How miserably would such a man be disappointed in the present instance! He would find, after he had pushed his inquiry to the utmost, that his confidence had been abused, and his expectation disappointed; that we had sustained the expense, but never experienced the advantage of the service. Mr. Francis begged leave to remind the House of the duties of an ambassador at a foreign court, and to show that they were such as were not capable of being properly executed by a minister of inferior rank, or little consideration. In the first place, it was the duty of an ambassador to keep a vigilant eye on what passed at the court and in the country where he resided; to watch its motions and designs; to take care to have early and authentic intelligence; and to communicate to administration at home all that he saw or learnt, which challenged in

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his own mind suspicion, or indicated preparation for foreign hostility, the object of which was not clear, distinct and ascertainable. Above all, his principal function was, to maintain a good correspondence between the two courts. It was his duty likewise, to negociate in respect to any matters in dispute between the two countries, or not perfectly understood, as far as the negociation was practicable, and where he saw occasion to remonstrate against the conduct of the government, when he thought it threatened disadvantage to his own country, with such a degree of firmness as the circumstances of the case might require. An ambassador ought to be a man of birth and rank sufficient for the station; because, finally, when remonstrance should have failed, in the very act of his recall, without taking leave, he should be a proper person to announce, with dignity to all Europe, the resentment of his sovereign. Mr. Francis expatiated on the advantages which a man of rank, acting in the character of an ambassador, had over a secretary of an embassy, a chargé d'affaires, or a consul. Whenever there was occasion to negociate, an ambassador had audience and access when he thought proper to demand them, either of the sovereign or his ministers: he had an opportunity of also forming connexions with the nobility, which a consul, or inferior minister, had not; and even his recall without taking leave, was an honourable way of declaring war; a way, that we could not have if there was no resident ambassador; and he contended there ought to be one at Madrid at all times, as Spain was a country with which we ought perhaps more earnestly to cultivate a sincere and well-grounded friendship, than with any other European nation. If the duties and services of an ambassador, which he had described were important, the neglect of them must necessarily be important, perhaps criminal in the same proportion; and it was a question naturally resulting from what had recently past, how did they know that the present rupture might not have been prevented, if we had a man of abilities, rank, and authority, at the time upon the spot? He was aware that it was not always necessary that a man of very high rank should be the ambassador at the court of Spain. A person of respectable character of the middling rank was perhaps as fit for the station as a person of any other description. An ambassador to the court of Spain ought to be what we styled a gentleman, or as the Spaniards termed it, a cavallero. The Spaniards still adhered to their distinctions between the new and old nobility of this country. They did not value a Titulado merely, but liked a respectable gentleman; he must, however, be a character without blemish, for in that particular the courts of Spain and Portugal were peculiarly punctilious. Mr. Francis mentioned the instance of sir Benjamin Keen, who certainly had not the advantage of high rank, and yet he was greatly respected by the Spaniards, proved a very useful ambassador, and did himself and his country great credit. At this important juncture we had no ambassador at the court of Madrid, and he had already shown that in a moment of exigency, and when affairs were critically situated, a chargé d'affaires, or secretary of embassy, could neither command the respect, nor act with the efficacy or authority of an ambassador.—Mr. Francis said, that since the peace in 1783, there had been but four appointments to the court of Spain, and of them only one ambassador had ever gone to Madrid, and he had not continued there above ten or twelve months. The first ambassador appointed had been lord Mountstuart, who had been in nomination from March to December, but who never set out. He meant no reflection on lord Mountstuart, for whose character he had a very high respect, and the noble lord had acted in a manner becoming himself; for, on the change of administration in 1783, the noble lord resigned his appointment, and refused to take any salary. The earl of Chesterfield was next appointed, but instead of going to Madrid, the noble lord set off for Paris, where he (Mr. Francis) happened to go and saw his lordship; he had occasion to go to France again the next year, and there he found the noble earl exactly as before, remaining at Paris in the character of ambassador to the court of Spain, and though the earl was in nomination nearer three years than two, he went no farther than Paris. The reason of this he did not precisely know; but he had heard that the difficulty lay in the court of Madrid not having appointed a conde, or person of equal rank with an English earl, to come to the court of London as ambassador. If the fact were so, he thought great blame was due to ministers for not having taken care be-

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forehand to secure that the court of Madrid should have engaged to send an ambassador of the same rank with the earl of Chesterfield to our court. The third person appointed ambassador to Madrid had been Mr. Eden, a gentleman well known in that House, and particularly to the side of it on which he stood. Mr. Eden went to Spain in the summer of 1788, and continued there till the same season of 1789, about ten or twelve months after which he left it. From this circumstance, it was evident that Mr. Eden did not find his situation perfectly agreeable to him, or he would not have left it so soon; especially when it was recollected that he had taken his family with him, which must have been attended with considerable expense, and was next to a convincing proof that he intended to have continued at Madrid much longer, when he first set out for that capital. On Mr. Eden's return home, he found his majesty had been graciously pleased to grant him a pension for life of 2000*l.* a-year which Mr. Francis commented upon as a most extraordinary circumstance. He said, he was apprized that it was not altogether unusual to grant a pension of 2000*l.* a-year for life to such ambassadors as had served their country long on foreign stations; but as Mr. Eden had only been at Madrid ten or twelve months, he did not think the rule applied to his case. Mr. Francis mentioned the report that had gone abroad of Mr. Eden's having experienced a difficulty in respect to his pension, in consequence of the great seal having been refused to be put to his patent by the lord chancellor. Whether that difficulty had since been got over, he knew not; but he had ever supposed that the pension was not given but at the conclusion of long service, and not to an ambassador who had resided little more than ten months.—The last of the four ambassadors appointed to the court of Spain since the conclusion of peace in 1783, was Mr. Fitzherbert, who had been appointed a few months since, and had set off only a few days ago. Mr. Fitzherbert he understood to be a respectable character, and a man of abilities, but he appeared to have been detained improperly, and now dispatched improperly. Mr. Fitzherbert had been appointed three or four months ago, and he had reason to believe that he had leave to stay at home for some time, he understood for a twelvemonth. This fact he took to be proved by the circumstance of Mr. Frazer having received his appointment of secretary of embassy, together with the powers and rank of minister plenipotentiary, which were never given to a secretary of embassy, but when there was an intention that the ambassador was not to proceed, and to enable the secretary of embassy to act in his absence. He next contended, that Mr. Fitzherbert having hitherto been suffered to remain in England, ought not to have been sent out now, considering that we had received an insult, and ought not to do any thing that looked like advance or submission to the insulting court. It was reported, that Mr. Fitzherbert was gone to Paris, to wait there till the return of the messenger from Madrid. If so, he thought it a curious mode of proceeding, exclusive of the disgrace it reflected on us in the eyes of all Europe, by showing, that so anxious were we, after what had passed, to make up matters with the court of Spain, that the moment there should appear a probability of opening a door to negociation, we were impatient to take advantage of it; that was very far from the manly line of conduct we ought to pursue on the occasion. But these considerations out of the question, he asked, what had Mr. Fitzherbert to negociate? The King's message, after stating the nature of the insult, said, "a demand has been made by his majesty's order, for adequate satisfaction, and restitution of the vessels, previous to any other discussion." After that high language, it was impossible that our minister could show an inclination on his part to court negociation without disgracing his country.—Mr. Francis recurred to the subject of our having had four ambassadors appointed to Madrid during the last seven years, and the great expense it had cost the country in salaries, &c. He said, if ministers could appoint to nominal embassies in this manner, with all the emoluments and no service, the law that restrained the Crown from granting pensions above a limited amount, might be evaded to any extent. The minister had nothing to do, but to nominate some young friend as ambassador to a foreign court, and to say to him, "You need not go to Madrid, to Petersburgh, or to Warsaw" (or wherever the embassy might be appointed to), "we don't want you there. Go to Paris, or Italy, or wherever you please. Improve your education by foreign travel, and

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you shall have four, five, or seven thousand a-year to pay your expenses." Mr. Francis said, he believed he had made every observation that was necessary, and had only to move,

"That an humble address be presented to his majesty, that an account be laid before this House of the dates of the several appointments of ambassadors from his majesty to the court of Spain, since the conclusion of the last peace, and of the periods of the respective residence of such ambassadors at the court of Spain; and also the amount of the salaries, and all other emoluments whatsoever, received by, or due to, the said ambassadors respectively."

Mr. *Pitt* said, that as the motion called for no information which was not, in a great measure, already before the public, he saw no objection against its being produced.

The motion was agreed to.

American Claims.] May 14. The House having resolved itself into a committee of the whole House to consider farther of the American Claims,

Mr. *Pitt* reminded the committee, that of all other cases, the case of the Penn family was under such particular circumstances as to require a distinct consideration; indeed there was no case to which it bore any immediate analogy. The amount was so large, that though it was impossible on the one hand, to approach at all near to an adequate compensation, yet the merit and services of that family were so eminent in the history of this country and others, that he conceived it would be the wish of the committee and the nation at large to make a liberal provision. The commissioners, to whom this and all other claims of this nature had been referred, had not been able, after omitting many parts of the claim, and taking into the account only such parts of the property as were really productive and valuable, to put a less value on the property than the sum of 500,000*l.* The elder branch of this family was, at the time when the family were dispossessed of the property, a minor, resident in this country, which in that respect, was similar to the situation of Mr. Harford, whose case had been considered two years ago; the other branch, though resident in America during the war, was found to have been loyal, notwithstanding that he was under the necessity of acquiescing for a certain time in the existing government of the country. Another circumstance likewise, besides that of its magnitude, which distinguished the case was, that the state of Pennsylvania, sensible of the great merit of the family, had granted a sum of 130,000*l.* sterling to be paid by instalments after the war. The fact was however, that only 11,000*l.* had been paid since that time, and though the Penn family had no reason to doubt the ultimate payment, yet at present they had not been relieved altogether in the manner which was intended. Under these circumstances, the case came before parliament, and what he should propose to the committee would prove somewhat different from what had been done in any other case; instead of a sum of money, a rent charge would with the permission of parliament, be settled on the family, subject to the same uses to which the property was subject payable out of the sinking fund. This would remain as a token of the merit of that family, and also of the national munificence. Now, in the case of Mr. Harford, to which this bore analogy, the sum granted was 70,000*l.*, out of 250,000*l.* Under all these circumstances, he should move "That the annual sum of 4000*l.*, be granted to his majesty, out of the consolidated fund, to commence from the 5th of January 1790, and to be settled on the heirs and descendants of the late William Penn, esq. the original proprietor of the province of Pennsylvania, in consideration of the meritorious services of the said William Penn, and of the losses which his family have sustained in consequence of the unhappy dissentions in America."

Mr. *F. Montagu* said, that as the grant of an annuity, instead of a gross sum, met with his approbation, he should not enlarge either upon this circumstance or upon the merits of the Penn family, although the latter might afford ample room for panegyric. Undoubtedly we owed the island of Jamaica to the exertions of sir William Penn, the founder of that family; and the government of Pennsylvania, universally regarded as the most perfect model of government ever carried into practice, had likewise been the work of the same illustrious character. The only question now before the committee was, the quantum of the annuity intended; the family would be thankful for whatever the munificence of parliament extended to them; but he could not help suggesting, that an addition of 1000*l.* per annum

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to that sum would prove more proportionate to the magnitude of the loss, and that the same proportion applied to this case, as was applied to Mr. Harford, would amount to 150,000*l*.

Sir *M. W. Ridley* whilst he acceded to the proposition in favour of the Penn family, could not help taking notice of the great hardship of the case of Mr. Harford, which was discussed two years ago; and for which an express rule was made for the purpose of cutting his compensation down to the sum of 70,000*l*., when his claim had been near 500,000*l*. The former sum was a mere pittance in proportion to his immense loss.

Sir *Grey Cooper* hoped the chancellor of the exchequer would adopt the proposition of 5000*l*., instead of 4000*l*. per annum.

Sir *James Johnstone* trusted, that as the nation was brave, so it would be liberal and that the large sum would be adopted.

Mr. *Fox* said, that although no man entertained a stronger conviction than he did of the innate virtues of the family of the Penns, and of their hereditary merit with this country; yet he could not avoid declaring, that it appeared to him that the sum proposed, when compared with that given to Mr. Harford, was a very proper compensation. The principle laid down, when that case was before parliament, was, that small losses were to be compensated in full, but that the compensation was to diminish in proportion to the magnitude of the claim, and that when the loss got beyond a certain extent, it was to have no additional compensation at all. He did not know whether any thing farther could be done for Mr. Harford; but if not, he did not see how any compensation beyond the annuity already proposed could be granted to the descendants of William Penn.

After some farther conversation, the motion was agreed to.

Mr. Francis's Motion respecting Appointments of Ambassadors to Spain.] May 20. The order of the day being read,

Mr. *Francis* rose to open his motion. He said, that the facts on which it rested were so evident and undeniable, that they required no proof of illustration, and the conclusion that he meant to draw from them, was so obviously reasonable, that he thought there was need of little argument to support it. He meant to move three distinct propositions of fact; 1. That since 1783 so many ambassadors to the court of Spain had been appointed: 2. That there had been in all that time, but thirteen months residence of an ambassador at Madrid; and 3. That for these thirteen months residence, the public had paid so much. Upon these resolutions of fact, he meant to ground an address to his majesty, beseeching him to give directions in order to provide for the due performance, in future of the duties and services belonging to the office of ministers appointed by the Crown to reside in foreign courts. He would appeal to the House if so short a residence of our ambassador at the court of Madrid, was to be approved of as a proper thing; whether lord Chesterfield ought to have been paid nearly 15,000*l*. for a residence at Paris of nearly two years; and whether Mr. Eden, now lord Auckland, was entitled to 17,000*l*. for having only resided at Madrid thirteen months? Those facts, he conceived, every man must acknowledge to be highly repugnant to every principle of public economy, and a prodigal waste of the public money, and therefore, he doubted not but he should have the support of every gentleman, who laid a stress on the great stake he had in the country; though he owned, he, for one, could not admit, that wealth ought to be considered as giving one man more importance in that House than another, or that it was an index to liberality and generosity; the most avaricious being, for the most part was to be found among those who possessed most riches. Mr. Francis read his several propositions as follow:—1. "That it appears to this House, that since the 12th of March 1783, there have been four appointments of ambassador from his majesty to the Catholic king. 2. That in the same period, an ambassador on the part of his majesty has resided at the court of Spain thirteen months only. 3. That in the same period, an expense has been incurred on account of ambassadors appointed to the court of Spain, amounting to 35,602*l*. 7*s*. 10*d*., though one of the said ambassadors received no part of the appointments. 4. That an humble address be presented to his majesty, to represent to his majesty the contents of the preceding resolutions, and humbly to beseech his majesty, that he will be graciously pleased to give such directions, as his majesty shall think fit, in order to provide for the due performance in future of the duties and services

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belonging to the office of ministers appointed by the Crown to reside at foreign courts."

Mr. *Burges* contended, that in relation to the facts stated in the three first resolutions, his majesty's ministers had not been at all to blame, but that they had done every thing in their power to maintain the dignity of the British court and to support the interests of the country, as connected with the politics of the court of Madrid. It was undoubtedly true, that the earl of Chesterfield had been appointed ambassador to Spain, that he had held that appointment two years, and that during that time, he went no farther than Paris. And the reason was this; it had been arranged between the courts of London and Madrid, on the conclusion of the peace, that for the better preservation of cordiality and friendship, ambassadors of considerable rank in each kingdom should be appointed to the two courts respectively; in the mean time plenipotentiaries were established at each court. The court of Spain in consequence of this arrangement appointed the marquis d'Almodovar ambassador to the court of London, and his majesty appointed lord Mountstuart to that of Madrid. Upon the present ministers coming into office, Lord Mountstuart thought proper to resign his situation, but he did so with great honour to himself, refusing to take any emolument, on the consideration that he had never been put out of the country. On the resignation of lord Mountstuart, his majesty appointed the earl of Chesterfield ambassador to Spain, and the earl was dispatched to Paris with instructions, there to wait till he learnt that the marquis d'Almodovar had set off from Madrid on his way to London. With a court of such high notions of honour as that of Madrid, it was indispensably necessary to adhere rigidly to etiquette, and the more so at a time when various misunderstandings between the two courts had been adjusted. It appeared that the marquis d'Almodovar was prevented by illness from setting out on his embassy, and the earl of Chesterfield consequently could not proceed. After much time had elapsed, the marquis d'Almodovar resigned his embassy to London, and accepted an embassy to Paris, and in his room a Spanish nobleman of high rank was nominated ambassador to the court of London. The same reasons (originating at Madrid) which had before detained lord Chesterfield at Paris, continued to detain him there still: the ambassador from the court of Spain not having set out on his embassy for London. After the lapse of a further period this Spanish ambassador was also appointed to another embassy, and as soon as the news reached the earl of Chesterfield, and he learnt that the marquis del Campo was appointed chargé d'affaires at London, the earl, agreeably to his instructions, returned to England, and resigned his office, when as the earl had actually left England, and set off at a considerable expense on his way to Madrid, and continued abroad with a view to repair thither, as soon as the circumstance of the case should render his going there consistent with the necessary regard to the dignity of the British court, it was thought highly reasonable that he should receive the equipage and salary of an ambassador just the same as if his appointment had been carried into full effect. The affairs of the British court at Madrid were at the same time continued in the hands of Mr. Liston, a person as able to conduct them as any man living. In July 1787, the marquis del Campo having been appointed ambassador to the court of London, Mr. Eden (now lord Auckland) was appointed ambassador to Spain, and as soon as he had completed a negociation of great importance to the country at Paris, he sat out for Madrid, where he resided thirteen months, discharging all the duties of an ambassador. In June last (for reasons not necessary to be stated), lord Auckland sat out on his return, and of course, received the usual salary and emoluments of an ambassador. When lord Auckland left Madrid, Mr. Liston having had the honour, as a reward for his services, to be appointed to a higher situation at another court, the affairs of the British court at Madrid were put into the hands of Mr. Merry, who was appointed chargé d'affaires, and who most admirably conducted them. In November last, his majesty appointed Mr. Fitzherbert ambassador to the court of Spain, and he was now on his way to Madrid. These facts being indisputable, the whole question resolved itself into two plain propositions. Was it necessary to employ ministers at Madrid? And if they were employed, ought they not to be paid? That the first proposition was undeniable appeared already admitted, since the hon. gentleman's own motions declared, that ministers at Ma-

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drid were necessary; and if that fact was established, the corollary followed; that if ministers ought to be employed, they ought to be paid. The three resolutions of the hon. gentleman, therefore, were clearly answered; and as to the object of the address, that was already obtained, since Mr. Fitzherbert had been appointed ambassador to Spain, and was actually set out. His majesty's affairs at Madrid had been as well taken care of, from the peace to this time, as they could possibly have been, had our ambassador resided there the whole time; in fact, the court of Spain had never been without a man to conduct his majesty's affairs, who was perfectly capable of doing it in the most effectual manner. If it were asked, why so much time had been suffered to elapse since lord Auckland quitted Madrid, and the period of Mr. Fitzherbert's departure, it was to be answered by the known fact that when lord Auckland left Spain, every thing in that country and its court were peculiarly friendly to Great Britain; nor was it till very lately that affairs assumed a different appearance. He trusted he had made it evident, that the circumstance of lord Chesterfield's having remained so long at Paris, and our having had but one resident ambassador at Madrid since the peace, and that for thirteen months only, had not arisen from any neglect of his majesty's ministers, but was owing to causes which took place at the court of Madrid, which ministers could not possibly foresee, and which, if they could have foreseen, they could not have been able to prevent. The noble duke (of Leeds) at the head of the foreign department, in concert with other of his majesty's servants, had done every thing respecting the subject of the motion, which was consistent with the honour, the interest, and the dignity of the country. Why the particular persons had been appointed ambassadors to Madrid, was a point governed by reasons which it would neither be proper, nor was it necessary for him to state to the House. Mr. Burges concluded by moving the previous question, which motion was instantly changed to a motion for the order of the day.

Mr. *Windham* begged leave to remind the hon. gentleman, that, unfortunately, he had left untouched the only point on which the whole question hinged: that of the earl of Chesterfield's being appointed ambassador to Spain, and going no farther than France. In repect to that circumstance, ministers chose to take their defence in the impregnable fortress of state secrecy. They said, there were reasons, but they refused to explain the nature of those reasons. It was apparent that there had been a neglect, and therefore, as the hon. gentleman had told them nothing, but that there were reasons for that seeming neglect, which he could not make known to them, it was necessary that the House should take the matter up, and by a moderate motion declare it as their opinion that they ought to submit their advice to his majesty, to beseech him to give directions that more care be taken in future, and that 35,000*l.* of the public money be not again paid where so little public service had been performed.

Mr. *Fox* supported the resolution proposed by his hon. friend in order to mark the disapprobation of the House at the conduct of ministers in respect to appointing ambassadors to the court of Spain. With regard to lord Mounstuart's conduct in refusing to receive any emolument, it was undoubtedly very noble, but it was what was not necessary, to be followed to the extent of the example set by the noble lord. When ambassadors had been changed after their appointments, or had resigned without going to execute the duties of their office, it certainly was not proper to receive the emoluments which actual residence at the courts to which they were appointed would have entitled them to; but the usual mode was to receive the equipage and not the salary, as had been the case with a noble friend of his (the earl of Cholmondeley) who head been appointed to Paris, but did not leave England. As to the noble duke at the head of the foreign department, no person would suspect him of having a design to make an attack upon that noble duke, because personally, and in every character but that of a minister, he had a great respect for him. It was the facts stated in the resolutions on which he should ground what he meant to say, and not upon the intention of the noble duke. But what had been the case with the earl of Chesterfield? The earl had received nearly 15,000*l.* of the public money as ambassador to Madrid, and never sat foot in Spain. He paid no great attention to etiquette, but he thought that if etiquette kept the earl of Chesterfield at Paris, it

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was an unfortunate etiquette for the country, and the object of the etiquette was not adequate to the sum which it had cost. The appointment of the earl to Spain might be justified, perhaps, but what reason could there be when he was first appointed ambassador to Spain, for his going abroad and remaining at Paris? Another ground of objection was the appointment of Mr. Eden to Paris, when we had the duke of Dorset there; thus we paid one ambassador to Spain, who was not there, and two to France, who were at Paris at the same time. Lord Auckland's appointment to Spain might be a proper one, but he did not think it a proper one with the view to that circumstance to which the hon. gentleman referred. At the time the most critical we had no ambassador at Madrid, nor any person of a diplomatic character. Lord Auckland left Madrid twelve months ago, and ever since we had neither ambassador, plenipotentiary, nor other minister, but only a consul. If the person now at Madrid was, as the hon. gentleman had stated, the fittest to execute the business there, he ought to have the character of a minister. In fact, the business in that department of government did not appear to have been conducted as it ought to have been. But he would ask, was not the situation of France, at this time, a situation of great difficulty? How came it, then, that we had at present no ambassador at Versailles? If we were so punctilious with Spain, how did the question of etiquette apply to France? France had an ambassador here, and we had no ambassador at Versailles. The situation of France with regard to this country was a situation of very great expectation, and hope, and fear; and yet we left the whole business of France on the head and hands of a young nobleman, to whom he had the honour to be related, and whom he highly esteemed. Lord Robert Fitzgerald was now the single person at Paris on the part of this country; and though he had no doubt but the noble lord would improve greatly, and acquit himself much to his credit, was the situation of France proper for a first essay? Lord Robert had been appointed secretary of embassy in Paris, which was a situation without the dangerous responsibility of a minister; but now he stood in a most critical situation, with the whole load of the country upon his hands, when, at this time, one would think that the wisest and most experienced persons were scarcely competent to the business.—Mr. Fox took notice of lord Auckland's having a pension, and declared, that he could not conceive the measure justifiable. When Mr. Burke's bill of reform, restraining the Crown from granting any pension beyond a certain amount, was in agitation, he had himself proposed the exception clause, allowing his majesty to grant a pension of 2000*l.* a-year to those who had served the Crown as ambassadors abroad; but he did not think that lord Auckland came within the exception, because his view in proposing the exception was, to enable the Crown to provide for such persons as had spent the best part of their lives abroad. Lord Auckland had only been at Madrid thirteen months, and therefore did not fall under the description. He did not mean to say of lord Auckland, who was not there, and who had earned much of government, that he was not entitled to some consideration, but to state the necessity of economy in part of the foreign establishment, which, in some respects, was starved, and overpaid in others. Without economizing, they could not pay those whose services entitled them to reward.

Mr. *Burges* said, that the reason why the affairs at Madrid were left to Mr. Merry, when they were most critical, although it had been thought right to have an ambassador there in less difficult times, was, that when lord Auckland quitted Madrid, the situation of affairs in Spain wore an appearance the most friendly to this country; and they had continued to do so till very lately. The right hon. gentleman ought to know, that at Madrid a chargé d'affaires, by a late regulation, was, in almost every respect equivalent to an ambassador. He was presented; and enjoyed a right of access to the king, and to his ministers.

Mr. *Pitt* said, that to the question from the right hon. gentleman, why the earl of Chesterfield had remained at Paris, he trusted it would be sufficient to answer, that if it could have been foreseen that the court of Spain would have so long delayed sending an ambassador to London, it certainly must have been advisable for the earl of Chesterfield not to have set out; but having done so, what would have been the appearance, in the eyes of all Europe, on the ambassador from London being recalled? In the next place, the right hon. gentleman had

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objected to lord Auckland's having been sent to Paris, when the duke of Dorset was there. The noble duke was certainly a fit person, in point of rank, character, talents, address, and other qualities, for the situation of an ambassador, but when there was a negociation of a matter, depending entirely on complicated commercial detail to transact, surely it was no disparagement to the duke of Dorset, that Mr. Eden should have been sent to Paris for that special purpose, who was, as he might appeal to the other side of the House for the fact, a person of all others the most eminently qualified by his manners, his knowledge, and his abilities for the business. As to lord Auckland's being but thirteen months at Madrid, it was to be remembered that the time spent in his journey to and from Madrid was to be taken into the consideration. And surely, as he travelled with his family, and consequently a numerous retinue, the journey to and from the capital of Spain was not the least irksome part of his duty, nor one for which he had not a fair right to expect remuneration. As to lord Auckland's pension, the fact was, that the noble lord had got no pension at all as yet, but had received his majesty's royal assurance that he should have a pension of 2000*l.* a-year, when he should no longer continue to be employed in his service as an ambassador; and when it was considered what the services were which lord Auckland had rendered to his country, exclusive of his embassy to Spain, every man of candour must allow, that he was entitled to the pension, in an equal, if not a much higher degree than any other ambassador.

Mr. *Francis* said, that his wish was to have his motions stand upon the Journals; he should, therefore, hope the hon. gentleman would have no objection to withdraw his motion for the order of the day, and move the previous question, as he had done in fact at first.—This request not being complied with, Mr. Francis said, the intention of ministers clearly was, to suppress the facts stated in his resolutions, but they might depend upon it, the more they endeavoured to keep them back from the public eye, the more they would be inquired after and made known. The only answer given to his declaration, that we had no ambassador at Madrid, while the earl of Chesterfield was in the receipt of the salary, Mr. Francis said, had been, "that it was very true, but we had two ambassadors at Paris." Thus superfluity was substituted for want; and it was thought a sufficient answer, if there were twenty different courts, at each of which the expense of an ambassador was incurred, though out of nineteen of them there was not any ambassador resident, to say, "it is true, there was not any ambassador at nineteen of the courts in question, but there were twenty all at once at Paris." It was no answer to the charge in respect to the earl of Chesterfield, who should have been at Madrid, to say he was all the time of his embassy going about France like a wandering Jew. Such a fact was most disgraceful both to the country, and to the earl himself.

The House divided: for the order of the day, 95; for Mr. Francis's motion, 59.

Complaint against Major Scott for a Libel on the Managers of the Impeachment against Mr. Hastings.] May 21. The order of the day being read,

General *Burgoyne* rose. He hoped the House would do him the justice to believe that he did not enter upon the task in which he was to engage, without extreme concern. He was sufficiently aware, that his weight with that House, and his talents, were by no means equal to those of many gentlemen near him. He stood forward, on this occasion, however, because he thought that when those, to whom the House had delegated one of the most important trusts which it could possibly vest in any of its members, were aspersed, while they were conscious that they discharged their duty with integrity, they were entitled to the protection and support of that House; and he had no doubt but that the present day would evince that there was but one opinion on the subject. If those to whom he alluded, forebore coming forward themselves on the occasion, at this time, from motives of delicacy, it was the more necessary that some other person should advance; and he had the rather intruded himself, because, having never fallen under the hon. gentleman's lash, he could not be supposed to be actuated, in the step which he was about to take, by any motives of private pique or personal resentment. He could feel concern for the offender, and he trusted that the hon. gentleman himself, or any of his best friends, would find him an open, and firm, but a liberal accuser. When he observed,

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that the principal person selected as the object of the hon. gentleman's attack, was entitled, above all other men, to universal respect and admiration; when he considered that this "man of malice," as his libeller had termed him, united wisdom and experience with every elegance of mind, every humane feeling, and every amiable faculty which adorned mankind; that this "man of malice" led a life of private virtue and public industry, and unremitting attention to the first interests of society; that, when all considerations of a party nature should be no more, and the libels and libellers should be in the dust, he would be looked upon by posterity as the honour of his time, it was impossible not to feel the indignation due to the rancour of those who selected such a character as the object of their calumny and the mark of their detraction.—With all these feelings, general Burgoyne said, the case might be regarded to be taken up by him as the cause of the gentlemen appointed by the House to conduct the prosecution against Mr. Hastings; but he begged to state himself as standing on very different and much broader grounds. He stood up in defence of the honour of that House, and of the dignity of the representatives of Great Britain, shot at, through the medium of the managers of the trial of Mr. Hastings. The House had borne too long the libellous attacks of the hon. gentleman who had avowed himself the author of the letter contained in the paper which he held in his hand. From the commencement of the trial to the present hour, the hon. gentleman, confessedly the agent of the criminal brought to the bar of the House of Lords, had systematically libelled that House, and the proceedings which had originated by its special authority. The honour of the House, and the privileges of its members, had been insulted and scoffed at with impunity. The general said, he had made out a schedule of the hon. gentleman's libels, to show that he was grounded in his assertion, that the hon. gentleman had uniformly, and with great industry, pursued a system of libellous attack on the managers. He read an extract from a letter, signed "John Scott," addressed to Mr. Fox, and published July 14, 1789, in which the writer asserted, "that, thirteen of the charges against Warren Hastings, esq., had passed the House of Commons, without having been read, to the shame and disgrace of the nation;" and "that there were papers on the table of the House, which fully demonstrated that every thing uttered in Westminster-hall was false and unfounded." The general was proceeding to read extracts from this letter, when

Major *Scott* spoke to order; and observed, that as the hon. general had only given him notice that he intended to proceed on one paper, and as he had prepared himself to answer that alone, he submitted it to his candour, whether it was fair to bring what had appeared at any other period into his statement of the complaint; not that he had any wish, to disown any of the letters which he had written; he did not care a straw about them.

General *Burgoyne* said, he had only produced the schedule, to show that the publication of which he now complained was but one of a long-continued system of libels, and that the managers had not been precipitate in complaining. He should be exceedingly hurt, if it could be supposed, that on an occasion like the present, he entertained even the most distant intention to produce any collateral matter in aggravation of the immediate cause of complaint, and sooner than have it for a moment considered that he was capable of any thing so illiberal and unfair, he would readily abandon any argument that the schedule which he had prepared might suggest, and return to the more immediate subject. The general then observed, that libels on that House had, of late, been frequent, and that the press teemed with the most licentious attacks on its proceedings, although it was well known that printing any part of what passed in the House, or even the speeches of any of the members, was directly contrary to the order of the House; but owing either to the indifference or the contempt of the House, the papers introduced printed accounts of their proceedings from time to time, and had gone on so for years. Even a communication by letter, or the circulation of any account of what passed, was contrary to order; but there was surely a great difference between a private letter from one gentleman to another, and a libellous attack on the House for its conduct in a judicial proceeding in a great cause pending before the high court of parliament, and more especially when the libel came from the agent of a criminal on his trial, and that agent was a member

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of the House, who consequently had an opportunity of complaining in his place against the managers, if he thought their conduct wrong. He wondered that the hon. gentleman, when he was penning his libels, did not reflect that he was composing attacks on the honour and dignity of parliament, and did not consider, when he subscribed his name to them, that he was setting the House at defiance, and risking all the consequences of a breach of the privilege of that House.—General Burgoyne next adverted to the conduct of Mr. Hastings and his agent, during the course of the trial, imputing to them a variety of endeavours to divert the attention of the public from the proceeding. At one time, he said, a gentleman had been brought from Wales to engage the notice of the House, and at another, the hon. gentleman came forward himself with a petition and a complaint. He did not accuse the hon. gentleman of ignorance of his duty as a member of parliament; on the contrary, his knowledge of that duty made his offence the greater. In order to show what had been the rule of proceeding in cases of a similar nature, the general stated several precedents from the Journals, and the first he mentioned was that of a baronet in 1701, who had uttered certain words, which were taken down at the time, but the baronet was suffered to explain himself, when he begged pardon of the House, if any thing which he had said had given offence. The general concluded with reading the several motions which he intended to move; viz. "1. That it is against the law and usage of parliament, and a high breach of the privilege of this House, to write or publish, or cause to be written or published, any scandalous and libellous reflections on the honour and justice of this House, in any of the impeachments or prosecutions in which it is engaged." "2. That it appears to this House, that the said letter now delivered in and read is a scandalous and libellous paper, reflecting on the honour and justice of this House, and on the conduct of the managers, appointed to conduct the impeachment now depending against Warren Hastings, esq."

The "Diary, or Woodfall's Register of Tuesday the 18th of May, 1790," having been handed to the clerk, at the desire of general Burgoyne, the letter signed "John Scott," was read from it, as follows:—

"To the Printer of the DIARY;

"Sir; if a man in the rank of one of his majesty's privy counsellors does not conceive it below his dignity to revive a calumny, long ago refuted, it is not unbecoming in me again to take notice of it. The story that appears in your paper of Wednesday, as told by Mr. Burke, in the House of Commons, was circulated last year, and a noble earl and a learned judge (who is a peer of the realm), were said to have mentioned it. Mr. Burke, who made the first inquiry on the subject in Leaden-hall-street, informed Mr. Hudson, that major Scott had told the respectable nobleman who presented Mr. Hastings's petition, that he had paid 3000*l.* for copying papers at the India-house. Mr. Hudson, from whom I received this information, told Mr. Burke, at my express desire, that I had never made such an assertion to any person.

"The story, as told by the learned judge, if I was rightly informed, was materially different, namely, that Mr. Hastings was the person who gave the information to the nobleman who presented his petition. It was now become a more serious affair, and effectually to counteract the mischief which such a story, coming from such a quarter, might do, I published the real state of the fact, on the 3rd of July last, and hearing nothing from either of the parties, who had circulated the tale (a tale so much in the style of Mr. Sheridan's story in his School for Scandal), I concluded that my explanation cleared up the matter, and that they were not a little chagrined, upon considering the injury which they might have done a persecuted man, by repeating a table conversation, in which the mistake of a single word makes the whole difference between the truth and falsehood of the story.

"Mr. Burke, after almost a year's silence, has thought proper to repeat this calumny, and has reduced me to the necessity of again refuting it. Indeed it was one of the most cogent arguments that he adduced, in order to persuade the Commons of Great Britain in parliament assembled to persevere in a prosecution which has already been dragged on to a length that excites the regret of every honest man in England, and the astonishment of every enlightened statesman in Europe. I am ready, at all times, to do justice to Mr. Burke, and I sometimes follow his example, by laying before the

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public my sentiments on points in which the public has a material interest. Upon this principle, I shall examine the truth of an assertion which, as appears by your paper, fell from him on Tuesday last—"That the delays which had hitherto occurred on the trial, were imputable to Mr. Hastings." Mr. Burke might have said, in the words of Richard,

"I do the wrong, and first begin to brawl.
The secret mischiefs that I set abroach,
I lay unto the grievous charge of others."

"That it was Mr. Burke's original intention that the trial should not come to a close in the present parliament, I conscientiously believe; and therefore I looked upon the motion inserted in your paper as nugatory. I will state the grounds upon which that opinion has been formed. In the first year of this extraordinary trial, the lords sat thirty-five days; they generally met at twelve, sometimes earlier, and sat often till after five, therefore Mr. Burke's calculation of three hours a day is entirely erroneous. There was not a single dispute in that year about evidence to cause delay. Is there a man of common sense will tell me, that thirty-five days were not sufficient for the trial, had Mr. Burke really wished to bring it to a close? What impediments did Mr. Hastings's counsel throw in his way? Thirteen days were wasted in speeches; four by Mr. Burke, four by Mr. Sheridan; by Mr. Fox, Mr. Anstruther, Mr. Adam, Mr. Pelham, and Mr. Grey, one day each; I say wasted, without meaning to detract from the merit of those gentlemen, for neither the Lords who are to decide, the Commons who are the prosecutors, nor the men, women, and children who heard the speeches, can possibly recollect a word of them, except Mr. Burke's story of Deby Sing, and Mr. Sheridan's exquisite eulogium upon filial love and parental affection.

"This was undoubtedly the year of Mr. Burke's triumph; for, as he knew Mr. Hastings could not then be heard, eloquence and harsh epithets could be applied with perfect safety; but the second year was commenced under considerable disadvantages. The malicious story of Deby Sing had been fully refuted. Many gentlemen had arrived from Bengal since the commencement of the trial, who were perfectly disinterested as to the event of it. These gentlemen concurred in their report of the astonishment and regret with which the account of the prosecution of Mr. Hastings had been received in India; and no man possessed of three grains of common sense can believe that the testimonials subscribed by all ranks of people in India, could have been transmitted through lord Cornwallis, if his lordship had not been thoroughly convinced that they contained the real sentiments of the people. All rational men execrated the trial, and certain well-known occurrences in England had considerably added to unpopularity of the leading managers of it. Mr. Burke began this second year by a second speech of four days. The remainder of the year was chiefly consumed in altercations upon the competency of evidence; of twelve questions submitted to the decision of their lordships, ten were determined against the managers, and two in their favour.

"It will hardly be credited, that this whole year was consumed in an inquiry into the merit of transactions that happened in Bengal in the year 1772, which were fully known in England in 1776, upon which Mr. Burke has not once said that he can produce a tittle of new evidence. But the novelty of the proceeding will strike gentlemen more strongly when they know, that upon the ground which Mr. Burke took last year in Westminster-hall, lord North exerted his whole influence in 1776, to remove Mr. Hastings from the government of Bengal, and that the marquis of Rockingham, with all his friends, voted then for his continuance, and beat the minister, though at that time in the plenitude of his power,

"In the winter of 1778, lord North himself proposed to the legislature, that Mr. Hastings should be re-appointed governor general of Bengal. He did the same the next year, and the year following, and it is something singular, that Mr. Fox and Mr. Burke, who could not discover common sense in any other measure that his lordship proposed during the late war, concurred with him in the propriety of this. Lord North, in reply to a question that I once took the liberty to put to him, acknowledged that he had wished to remove Mr. Hastings in 1776; that he had since that period proposed his re-appointment three several times; when his term of service expired by law, that he did so because it was in a season of war, and of great difficulty and danger, and because Mr. Hastings possessed firm-

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ness, vigour, and abilities, and the confidence of the East-India company. How far it was just or honourable in the representatives of a great nation, to keep a man in high office, by various re-appointments, and then to prosecute him upon accusations well known some years prior to the first of those re-appointments, I will not venture to determine, but I am confident that there will be but one opinion upon the subject, when it shall be considered without prejudice, passion, or party. Thus ended the second year of the trial. To impute the obstructions that occurred in the course of it to Mr. Hastings, is to add insult to injury.

"The third year of the trial began on the 16th of February. Much of the time, as in the last year, has been consumed in disputes upon evidence. Four questions have been referred to the judges, and all of them determined against the managers. This great national trial stands thus: For the first year there was not a single dispute upon evidence; the court met early, sat late, had thirty-five sitting days, thirteen of which were consumed on speeches. The two next years have been chiefly spent in disputes upon evidence, Mr. Burke's second speech of four days, and Mr. Anstruther's of one, excepted. Sixteen times have the Lords adjourned to the chamber of parliament, to determine upon the admissibility of evidence. Fourteen of the decisions were against the managers and two in their favour. The Lords acted constantly with the advice and assistance of the judges of the land.

"After this plain recital of facts, I would ask any candid and impartial man, if I am not well grounded in believing, that Mr. Burke had pre-determined not to close the prosecution before the dissolution of parliament. As to the two motions which appear in your paper, I shall not presume to comment upon them. When Mr. Burke gave his first notice in the House, if your paper is correct, he mentioned something of the new and dangerous doctrines delivered in Westminster-hall. Possibly, he afterwards thought it a point of too much delicacy, to attack all the law of the land, and therefore changed his battery, thinking, perhaps, that Mr. Hastings who had already borne so much abuse, could sustain a little more.

"Upon one other part of Mr. Burke's speech I shall say a word or two, because in the depressed state of the funds, it was calculated to sink them still lower. He read a partial extract from a letter of lord Cornwallis, in which mention is made of the poverty and wretchedness to which the natives of Bengal are reduced, by the defects of our former system. The conclusion drawn by Mr. Burke from this passage was, that Mr. Hastings had grossly mismanaged the country. The defects to which lord Cornwallis alluded (that of not letting the land in perpetuity), Mr. Hastings never had the authority to remedy, nor was it given to the Bengal government until the year 1786; but Mr. Burke's argument is totally destroyed by the contents of another letter from lord Cornwallis, received by the same ship. His lordship in that letter assures the directors, that they may depend upon the continuance of an annual surplus of more than two hundred lacks—a surplus far beyond what I calculated upon, when I was accused of being too sanguine in my expectations—a surplus that totally overturns every argument used by Mr. Fox in support of his bill. But as this is a point on which the public credit of the country is concerned, I shall state it from the journals of the House of Commons. The year preceding Mr. Hastings's accession to the government of Bengal, the total receipts of that government were only three hundred and thirteen lacks of rupees. The annual receipts of that government in the average of three years, from 1781-2 to 1783-4, were 502 lacks of rupees. From 1782-3 to 1785-6, 521 lacks. From 1785-6 to 1787-8, 508 lacks. From 1786-7 to 1788-9 530 lacks. Let any gentleman who as the least knowledge of business, determine whether a country, producing so equal a revenue for so many years is in danger of being ruined. The fact is, that in the same period that the British nation nearly doubled its debt, and lost its Western Empire, Mr. Hastings increased the revenues of Bengal two millions sterling a year, and extended the British empire in India, and while the ingenuity of the minister has been exhausted in an attempt to raise the revenues of Great Britain a million beyond its expenditure, without the imposition of additional burthens, lord Cornwallis assures his constituents, that this may be depended upon, an annual surplus of more than two millions sterling from Bengal.

These circumstances strike me with no little astonishment, and often occur to my

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mind, when I cast my eyes upon some of Mr. Hastings's old friends in the managers' box, or when I hear it gravely affirmed, in direct opposition to the evidence of figures, to truth and to common sense, that his measures have been attended "with great loss and damage to the East-India company, and that they were carried on, to the vexation, oppression, and destruction of the natives of Bengal."— I am, Sir, your humble servant. JOHN SCOTT."

Bromley, May 16, 1790.

The *Speaker*, as soon as the letter had been read, said that it was the practice of the House to hear the party against whom a complaint was made, if he was a member of the House, as soon as the matter of the complaint had been fully opened, and then it was usual for the member complained of to withdraw. This, he had reason to believe, was the general practice, although he was aware that there existed exceptions to it, as in the case of aldermen Crosby and Oliver.

Major *Scott* then rose and said:—Mr. Speaker; Before I enter upon my defence I must express my acknowledgments to the honourable general for the very fair and candid manner in which he has opened the charge which he has thought proper to prefer against me. Before I begin I do most solemnly disavow the slightest intention that I had to do any thing that could be construed into an invasion of the privileges of the House of Commons. The peculiar situation in which I stand at the present moment, will, I flatter myself, plead my excuse to the House, for detaining them a short time, but I promise them it shall be as short as possible. I must confess to you, Sir, that I really did not expect at this time of day such a motion from such a quarter. I know that this House possesses great and important privileges; I know that the privileges of the House are daily broken in upon: but as there are some rules "more honoured in the breach than in the observance," I have always supposed, that in a country the freest in the whole world, this House had consented to dispense with the rigid observance of some of its privileges, retaining, however, the full power to resume them; and where liberty shall be pleaded as an excuse for licentiousness, the House will consult their own dignity, their own honour, and their justice, in calling the offender to a severe example. I believe, Sir, it has been observed in almost every trial for a libel in the courts below, that the surest way to preserve the freedom of the press, is to punish the abuse of it. Upon this ground, I wish my conduct to be considered, and upon no other I am sure, will it be considered by a body of gentlemen, who prizing the blessings of a free constitution, will be at all times ready to support, in its fullest extent, the freedom of the press. I know it to be one of the standing orders of this House, that no strangers shall be admitted into the gallery; yet, Sir, our gallery is always, and very properly, full of strangers. I am aware that it is a breach of privilege, for any man to publish the speeches of this House; yet, we know, that every day's debate is regularly published, and with great accuracy in general, on the following morning, and we have very good reason to believe, that on important questions in this House some members write their own speeches, and I will appeal to the recollection, of every gentleman whether men of the first eminence in the House, have not thought it of importance, to correct any misreprsentation that has occasionally been made of their speeches, by an explanation on the following day; but no person ever thinks of excluding strangers from the gallery, or prohibiting the publication of the members speeches, because it has sometimes happened, that errors had been committed in publishing what gentlemen have not said in this House.

The precedent of the year 1701, does not apply in any degree. At that time the manners and customs of all ranks of people were different, and the public knew little of the proceedings in parliament, beyond what appeared upon the journals; but in these enlightened days, they know what their representatives do every day, and they have a right to know it. I perfectly concur in opinion with the right hon. gentleman (Mr. Fox) that those who send us to this House have a right to be acquainted with what passes in it. For many years back the members of this House obligingly (many of them at least) explained to the public their conduct in parliament, and I hold now in my hand twelve speeches and pamphlets on political subjects, published by a right hon. gentleman (Mr. Burke), which I shall more particularly refer to by-and-bye. The question then to consider is, whether in my remarks upon a speech of a right hon. gentleman, or rather upon the re-

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port of that speech, I have deviated from that line of propriety, which as a member of parliament, or as a gentleman, I am bound to observe. But, though my letter is really and truly a remark upon a speech in a paper, yet I will neither be mean nor base enough to shelter myself under such a subterfuge. I have read it again and again, but cannot find an offensive word in it. Will the hon. general point out any thing offensive in the language, or absurd in the argument? I shall be glad to meet him upon that ground. I will very shortly examine the facts that I have asserted one by one, and I defy the united abilities of the gentleman to dispute the veracity of any one of them. The first, Sir, is the story of the 3000*l.* stated to have been paid by Mr. Hastings, at the India House, for copying papers. Am I to blame for the circulation of that ridiculous tale? Or am I charged for a libel, because I arrested a libel in its course? Men who are prosecuting for acts which involve, as they say, the desolation of provinces, the banishment of princes, the robbery of ladies, &c. one should imagine, would be above attending to such nonsense. Yet, when a right hon. gentleman thought proper to make a serious inquiry into such tittle-tattle stuff, and to involve my name in it; when men of rank and consequence repeated the story again, I was justified in declaring what I again repeat, that the story has no foundation in truth, either as it respects Mr. Hastings or myself. If there are any persons who ought to be ashamed, they are those who first brought such contemptible nonsense before the public.

My next assertion is, that the length to which the trial has been protracted, has excited the regret of every honest man in England, and the astonishment of every enlightened statesman in Europe. I solemnly deny that this was meant as a reflection upon the House, but that remark is founded in truth, I will maintain before the whole world. Sir, the next assertion in my letter is, that an account stated in a morning paper, that the delays in the trial are imputable to Mr. Hastings, are not true; and that to say so, is to add insult to injury. Had I stopped here, the House might with justice accuse me of audacity: but I have given my reasons for adding, that I believe it was the original intention of the right hon. gentleman not to bring the trial to a close in the present parliament. If every honest man in the kingdom will lay his hand upon his heart, and deliver his opinion, I am convinced it will exactly coincide with mine. But I have still stronger evidence to offer upon the point. Such gentlemen as have attended in Westminster-hall, cannot but observe the slow progress of the present trial. I own I am astonished at the patience and forbearance of both Houses. Sir, we the prosecutors have been proving for several days,—I beg pardon, I mean we have been attempting to prove, that Mr. Hastings, by a system he established in 1781, brought great loss and damage to the revenues of the East India company, though our managers proved three months ago that the change of system was attended by an actual increase of revenue, amounting to nearly 400,000*l.* in three years. If there is one gentleman in this House who doubts the truth of this, let him borrow the evidence, and look into page 1196. Sir, upon the next fact the House will determine. I think the justice of the reflection no man will dispute, but I have put it hypothetically, and I now ask the House and the country, whether it was just or honourable to impeach a man for acts that he was said to have done in the year 1772, which were fully known in 1776 in Great Britain, upon which not one tittle of new evidence is or can be brought, when subsequent to the year 1776, he has three several times been appointed by the legislature, on the motion of the minister, governor-general of Bengal? Surely such a question is a fair one, and if ever pertinently put, put at such a time as this, when we may be on the eve of a war. I have put the question hypothetically, but I am neither afraid nor ashamed to say that I think it was unworthy of a great nation. The very same observation fell from a member of great consideration in his place (Mr. Dundas), while the articles were depending in this House. He expressed his conviction that the House would never impeach Mr. Hastings for acts done in 1772, universally known, and virtually sanctioned by three subsequent re-appointments. He mentioned the case of sir Walter Raleigh, and said that the impeachment of Mr. Hastings upon that part of the article, would be more unjust than the execution of that great man, who after condemnation, was taken from the Tower to be employed on foreign

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service, and put to death after his return to England. The House merely voted that there was matter of impeachment in the charge as originally brought, and that charge contained a great variety of allegations. The article was drawn by the committee, and voted by the House, without any discussion.

The next point, Mr. Speaker, is what I took as I state from the newspaper, for I really was not in the House at the time the right hon. gentleman gave notice of the motion he intended to make. I mean as to the new and dangerous doctrines that he had heard in Westminster-hall; I abide by the reflection I made upon that circumstance. The next point is a matter in which the dignity and justice of this House is most materially concerned; on which its character for consistency throughout the country materially depends. I do affirm, that the House upon this point is involved in a very unfortunate dilemma, owing to the degree of confidence they have reposed in the gentleman opposite me. When I state the facts, the House will judge of the proper measures to be pursued. Of the twenty articles composing the impeachment, there is one entitled revenues, on which so much time has been employed in Westminster-hall. When that article was under the consideration of a committee of the whole House, the minister not only voted, but spoke against it; and he proved from accurate calculations, that by Mr. Hastings's change of system in 1781, a considerable advantage had accrued to the East India company. He proved also, that no sort of favour was shown by Mr. Hastings to his servant Cantoo Baboo, who had been a very considerable farmer of revenue before Mr. Hastings arrived in Bengal. It happened, however, that upon the division, the minister was left in a minority, and the question was carried by a majority of fifteen, for impeaching Mr. Hastings upon that article. This was the only debate in the House upon the subject, for when the article was presented in the form in which it now is, it passed like all the others, without observation or comment, and I am sure without being looked at; because either it contains an assertion palpably and notoriously false, or certain resolutions moved for four years successively are notoriously false, for this most intelligible of all reasons, that they are manifestly contradictory, the one to the other, as I shall prove in a few words, and unless it be true that two and two make five as well as four, both are not true. This article of impeachment states, that Mr. Hastings's administration of the revenues was attended with great loss and damage to the revenues of the East India company, and with the vexation, oppression and destruction of the natives of Bengal. It was voted by the House of Commons in the month of May, 1787. Now it happened that a very few days before this vote, the House voted another resolution directly the reverse of it. That resolution was moved by a right hon. gentleman (Mr. Dundas) and is in substance as follows: "That the annual receipts of the Bengal government on an average of three years from 1781-2 to 1783-4 were 502 lacks of rupees." The right hon. gentleman did not merely content himself with moving this resolution, but he reasoned upon it at great length, and he affirmed, as is undoubtedly the truth, that Bengal was the best governed in India. This is the average of the three years of Mr. Hastings's administration, that immediately followed the change of a system, a change so much condemned by the managers. I will do the right hon. gentleman (Mr. Dundas) the justice to say he also voted against the revenue article; but as the House has had an India budget in 1788, 1789, and 1790, and as it has voted resolutions each year which prove, that so far from Mr. Hastings having overstrained the country in order to get a large temporary revenue, the last year's revenues are higher than the preceding I do own I am not a little astonished, that the House still permits the revenue article to stain its journals, or allows its managers to go on day after day, attempting to prove what, if it could be proved, must disgrace the House of Commons; namely, that for four years successively it has entered false resolutions upon the journals. I contend, that the resolutions are true, and that the article is false. Those who differ in opinion with me, those who support the article, must condemn the resolution. Was it, Sir, indecent, or improper in me, to attempt to avert the mischiefs which the public might sustain by a gross perversion of the sense of lord Cornwallis's letter? Is there a man in England so stupid as to believe that a country is depopulated and ruined, which furnished supplies for maintaining

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70,000 men in arms during the late war, which since the reductions, in consequence of the peace, has furnished a surplus of more than two millions sterling a-year, and from which lord Cornwallis himself tells us, we may depend upon the continuance of such a surplus in future? I think, Sir, by explaining this matter, I might claim some merit with this House, and with the public. It is the duty of every member of parliament to support the government of the country as far as he can; and I am not afraid to avow, that I have often written upon the revenues and resources of this country, and I shall ever be ready to avow it. As to my statement of the revenues, so different from that of the gentlemen opposite me, I will pledge my salvation upon the truth of my account, unless they will prove, that lord Cornwallis has transmitted false accounts from Bengal. Look to the reports upon your table, and you will see, that when Mr. Hastings came to the government of Bengal, the whole resources of that government were 313 lacks of rupees. Look to your journals and you will see, that when he quitted the government, they were 520 lacks, and that now they are 530 lacks. In opposition to this broad fact, is it not enough to make a man lose his patience, when he hears it asserted in the name of the House of Commons, that Bengal had declined during his administration? Sir, there is one other point that I must mention. The hon. general says, if I saw any thing wrong, it was my duty to state it to this House. Have I neglected my duty in this particular? On the contrary, I am afraid I have troubled you too often, but it is a point of so much consequence, that I do hope the time will come when gentlemen of more importance will take it up; for it is a point in which the honour, as well as the justice of the House, is deeply interested.

I am afraid that I have tired and disgusted the House by so often repeating the same remarks; and so far have I been from neglecting my duty, that I have been constantly upon the watch, and have seized every practicable opportunity to bring so important a matter before parliament and the public. I have told gentlemen, that though I cordially concurred in the statements made by the India minister, they were directly contrary to the articles of impeachment, and if the resolutions were true, what was said in our name in Westminster-hall must be false. I am placed in that situation, that I must stand or fall in the opinion of this House, and of my country, by the truth of what I have asserted. I have repeatedly said, within this House and out of it, that we passed thirteen articles without reading them. Did I act meanly or basely by the House? Did I lie in wait to entrap them? If I had acted so vile a part, I should well indeed deserve the indignation of this House; but I defy the hon. general to say that I have ever put the case more forcibly out of the House than I have done in it. I warned the House of what they were doing at the time they did it. I told them, I was sure that if they read those articles, they would never pass them. I cannot appeal to you, Sir, for the truth of this, because you were not in the chair at the time, but I am sure the gentlemen who sit at the table remember it: I intreated, I implored the House to read the articles before they voted them. These articles are directly contrary to resolutions upon your journals; they criminate the directors and the King's ministers. These articles denominate Hyder Beg Khan, the minister of the nabob of Oude, an implacable tyrant; and they also condemn Mr. Hastings for putting so much power into his hands. Yet lord Cornwallis tells you, for you have his letter upon your table, that in his final arrangements he has nearly adhered to the principles laid down by the former governor-general, Mr. Hastings. All the subsidiary arrangements are formed, as his lordship says, with a view to strengthen those principles and render them permanent. To this the king's ministers reply through the directors, that having attentively considered the whole subject, and perused the whole proceeding, they approved of the general arrangement, and of the principles on which it was formed. What principles? why, Sir, the very principles which this House, without knowing one word about the matter, has condemned; the principles which, when carried into practice, procure an annual subsidy of fifty lacks from the nabob, which pays the expense of one-third of our army. I hope the House will excuse me, if upon this subject I should a little forget the moderation that becomes me; but the contradictions are so palpable, that, I own, I am lost in astonishment, when I reflect upon them. Let not the House be displeased with me for laying facts be-

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fore them. Those are to blame who have abused the generous confidence which this House placed in them. Sir, I hope I shall not be accused of disrespect to the House of Commons. I call God to witness I mean it not. The House confided in their committee; after agreeing to the impeachment, it voted the articles without discussing the particulars, and it has happened, that many acts are stated as criminal, which the House has sanctioned as highly meritorious in another character.

And now, Mr. Speaker, having entered into a full, and, I hope, a satisfactory explanation of my conduct, let me suppose, for a moment, that I have acted irregularly, or improperly in what I have done. To what I have said I have put my name. Some proof surely that I meant to do no wrong. But admitting for a moment that I have been misled: by whom is it that I have been misled? by the gentlemen opposite to me; and I do confess myself at a loss to discover with what degree of consistency such a motion, as is now proposed, can come from such a quarter. The hon. gentleman is pleased to compliment me upon my knowledge of my duty as a member of parliament. I do assure you it has been my study to acquire that knowledge, and if I have erred, it is by following what I thought justifiable precedents. I never could conceive, Sir, that a moderate, temperate examination of what is stated in a public paper, could have been construed into a breach of privilege, but much less, Sir, could I conceive it possible, after perusing the curious precedents that I shall now produce. I will not quote the parliamentary debates or the newspapers as authority, but I will ask every gentleman in this House, whether it has not been the invariable practice of gentlemen opposite to me, to arraign with the utmost freedom such acts of the majority as they disapproved; I mean in public meetings, in the shape of resolutions, &c.? But, Sir, I will now state to you certain curious facts; and first, I shall bring to your notice a pamphlet intituled, "Mr. Burke's speech on the motion made for papers 28th of February, 1785." In the title page there is a long Greek quotation, which I am not able to translate for you. Every thing contained in that speech, the gentleman had a right to say; but with what consistency he can support a motion against me, after publishing, many months subsequent to the speech, this pamplet, I am at a loss to discover. Surely, Sir, it was no longer a speech, but, according to the law of this day, a libel upon parliament. The first passage that I shall select, is as follows, and the House will see it is very much in the style of the gentleman's orations in Westminster-hall.

"Let no man hereafter talk of the decaying energies of nature; all the acts and monuments in the records of peculation, the consolidated corruption of ages, the patterns of exemplary plunder in the heroic times of Roman iniquity, never equalled the gigantic corruption of this single act. Never did Nero, in all the insolent prodigality of despotism, deal out to his Prætorian guards a donation fit to be named with the largess showered down by the bounty of our chancellor of the exchequer on the faithful band of his Indian sepoys." The next is as follows—"Your ministers knew, when they signed the death warrant of the Carnatic, that the nabob would not only turn all the unfortunate farmers of revenue out of employment, but that he had denounced his severest vengeance against them for acting under British authority. With a knowledge of this disposition, a British chancellor of the exchequer, and treasurer of the navy, incited by no public advantage, impelled by no public necessity, in a strain of the most wanton perfidy which has ever stained the annals of mankind, have delivered over to plunder, imprisonment, exile, and death itself, according to the mercy of such execrable tyrants as, &c. &c., the unhappy and deluded souls, who, untaught by uniform example, were still weak enough to put their trust in English faith." Does the House know who the chancellor of the exchequer is, and who is the treasurer of the navy, of whom the gentleman speaks so freely? The first is the right hon. gentleman (Mr. Pitt) below me on the floor; the second is a right hon. gentleman (Mr. Dundas) not now in his place, who is often denominated the minister of India in this House. Yet those are the terms he applies to two gentlemen, acting under the authority, and with the approbation of parliament. This gentleman then proceeds to argue with the utmost freedom, that an arrangement formed by the right hon. gentleman below me (Mr. Pitt), under the sanction of parliament, was a corrupt and scandalous bargain, in order to repay certain persons the ex-

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penses they incurred, by bringing members into this House at the last election; and will this gentleman vote against me, for my moderate discussion of a newspaper speech? Will this gentleman pass a vote of censure upon me for giving my reasons in support of an opinion that I can never give up, namely, that it was his intention not to close the prosecution of Mr. Hastings before the dissolution? He, who after stating an act to be flagrantly corrupt, which was done under the sanction of the House, and the three branches of the legislature—he, who has assigned reasons for that act which never entered into the head of any human being but himself?

The next respectable authority that I shall quote, is from a pamphlet written by Richard Brinsley Sheridan, esq., intituled, "A Comparative View of the India Bills of Mr. Fox and Mr. Pitt addressed to J. M. esq. with eight stars, in Staffordshire." In this the acts of the House, and of the legislature, are treated with the utmost freedom. I shall only select the following passages, because they will not tire the House:

"1. As to the declaratory law itself, and the plea which was made for it, we seem to be perfectly agreed upon that subject. The papers laid before the House of Commons, certainly contain, as you observe, a complete refutation of all the pretences upon which the sending out the four regiments to India was defended as a measure of necessity. And still more strongly do I agree with you in your remarks upon declaratory acts in general, and upon the nature of this declaratory act in particular. It is, indeed, an alarming and an unfortunate event in the history of parliament—for it is one that shakes the foundation of that security which all men hope from law, and of that respect which all men owe to it—to see the representatives of the people persuaded to intercept the ordinary course of justice, to assume themselves a judicial character, and, upon the suggestion of the King's ministers, to determine a question of property, in favour of the servants of the Crown, against the claims of the subject! Nor can our apprehensions of the consequences of this precedent be diminished, by reflecting upon the manner in which the measure was carried through the House of Lords; by reflecting, that the supreme court of judicature in this country, should have been induced by any influence, or by any eloquence, or upon any plea of necessity, pretended or real, to decide, with unparalleled precipitation, upon a construction of law, in the absence of the judges of the land, and without granting a hearing to the parties interested in their decision. 2. If it were worth reasoning or arguing upon, it would be no difficult matter to prove that this crooked system of involved mystery and contradictory duties could never have been meant for any fair purpose of good government. 3. Whether under this loose and arrogant mandate, so unlike the temperate precision of a British law upon such a subject, there is any one right, power, or property of any sort, left to the company, may reasonably be doubted."

Here, Sir, acts of parliament are most freely spoken of. I do not say improperly, because I approved of a fair and liberal discussion of political subjects; but how the hon. gentleman who wrote that pamphlet can vote against me, I cannot conceive. I trust I may address Mr. Woodfall upon a public subject with as much security as the hon. gentleman may write to a country gentleman in the county of Stafford, whose name he does not give us, and for whose place of residence he substitutes eight stars.

The last authority that I shall quote, is that of the hon. general himself, who is also an author, and not a despicable one. When he was on bad terms with some of the gentlemen who sit near him, he wrote the following passage in an address to his constituents at Preston: "During the last session of parliament an inquiry was instituted. The detail of the attempts made by ministry to defeat it, is too notorious to be necessary upon this occasion. They at last contrived that it should be left imperfect." Is this no reflexion upon the House? In another place the hon. general says: "If the state of the nation in its wars, in its negociations, in its concerns with its remaining colonies, or in the internal policy and government of these kingdoms, can afford the smallest countenance to an opinion of integrity and capacity in administration, I am ready to abide every censure, for being, what I am, a determined enemy to it; I have been in a situation to see that in a complicated and alarming war, when unsupported by any alliances, the kingdom was left solely to its own native military force, that sole reliance was discouraged

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and depreciated. I saw a systematical design of villifying and disgracing every officer whom those ministers had ever employed by sea or land; and those most, who stood highest in their several professions. The ruin of officers forms almost the whole of their military system; and if I have experienced my full measure of their hostility, it only shows the extent of their plan; having furnished little else than my zeal and industry, as a title to their malevolence. As to their political plan, its object is to impose upon the nation from session to session. Far from profiting themselves, or suffering others to profit by bitter experience, they exist by bringing forth a succession of deceits. I cannot shut my eyes against my own certain knowledge of some of the most fatal of these deceits respecting America; nor restrain my just and natural indignation at their efforts, without forfeiting every feeling for my country."

Let not gentlemen suppose, because I stop here, that the subject is exhausted. I hold in my hands twelve speeches and pamphlets, written by the right hon. gentleman (Mr. Burke), and I will engage, that from each I extract expressions infinitely stronger than any which I have used upon any proceedings of the House of Commons. I deny that I have ever said or written a word disrespectful to this House. The House has been deceived and misled; that I have said, I say it again, and will prove it if the House pleases, by an appeal to your Journals. The House confided in their committee to draw up articles of impeachment—The committee therefore has involved the House in contradictions, in so far as the articles condemn systems which parliament has approved. I am much obliged to the House for their attention, and will only detain them a moment longer. It will be no justification to me if I have done wrong to prove to the satisfaction of those who are to decide, that my accusers are fifty times more guilty than I am. Yet, Sir, when I consider that the charges originally presented by a right hon. gentleman (Mr. Burke), and the articles were printed and publicly sold all over the kingdom, and that every circumstance attending the trial of Mr. Hastings has received a full discussion out of doors, I cannot but admire that I should be attacked by those who have made the present complaint to you. In one of the general's motions, he calls me now, or late, an agent of Mr. Hastings. I was in that character when he was abroad; I am not so now, unless he means as his warm and steady friend, who am ready to devote every faculty that I have to his service. So far as that I avow myself, but I deny that I wrote the letter complained of in concert with Mr. Hastings, or any other person. We reside in different counties, very distant from each other, and the letter I wrote on Sunday last, at my house in the country, from whence it was dated, nor was it seen by a human being till I delivered it myself into the printer's hands on Monday, unless the first sheet, which, I believe, was laying on the table when one of my daughters came into the room. I am thus particular, Sir, because the hon. general insinuated that every thing was done in concert, and as part of a settled system. So in the case of capt. Williams; I solemnly declare that Mr. Hastings knew nothing about that matter. The moment I saw the attack upon him I did what I am sure he would have done by me; I sent him the paper, and answered in the mean time as far as came within my own knowledge. As to the poetry to which the hon. general alludes (the letters of Simkin) it is so excellent, that I fancy the hon. general reads it with pleasure; but I do assure him that the author of those verses is too independent both in mind and fortune, to act under the direction of any person, or from any other motive than his own conviction; and here, Sir, I trust my cause, having the fullest reliance upon the justice and candour of the House.

Major Scott then withdrew. General Burgoyne moved his first general resolution, which was seconded by Mr. Grey, and agreed to by the House. He next offered to move his second resolution, directly charging major Scott with having violated the law and usage of parliament, and been guilty of a breach of privileges. Mr. Sheridan conceived that the House ought first to vote the letter a scandalous and libellous writing, before they voted any thing personal to the author. A motion was accordingly framed, and on its being read from the chair,

Mr. *Pitt* said, that although no one could agree more heartily with the general principles laid down by the hon. general, nor would be more anxious than he was to preserve the privileges of the House from attack (and if the paper, upon due

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consideration, should be found to bear out the construction put upon it, he conceived there could be no question, but that the censure of the House must fall on the transaction); yet, as a lax practice had obtained of late years, in respect to publications relative to the proceedings of parliament, he submitted it to the candid judgment of the hon. general and his friends, whether it would not be more fair, not immediately to proceed to vote the paper a scandalous and libellous writing, but to give gentlemen time to examine whether it was so or not, before they were called upon to vote it? However lax the rule had hitherto been, it was undoubtedly proper that it should be enforced: but then, when the system of strict enforcement was proposed to be adopted, he trusted every gentleman would see the propriety of doing equal justice, and would not think it warrantable, suddenly and precipitately, to apply it to a single case without deliberation. He did not think it right to say what his opinion was, on the first hearing the letter in question read; indeed it was scarcely possible for him to do so with any satisfaction to his own mind, or with any colour of justice to the party concerned; and therefore, he conceived it would be more proper for the House in general to take the matter up with deliberation, and not on the impulse of the moment, to vote either one way or the other. He would therefore move, "That the debate be adjourned."

Mr. *Fox* said, that the right hon. gentleman had talked of the lax practice which had obtained in respect to libels on that House, and its proceedings, as if they were about to depart from any established rule of that House. He was not aware that the rule had ever been departed from: he knew it had not been universally enforced, but whenever complaint had been made of a libel on the House, or any of its members, the rule had, he believed, been uniformly carried into execution. On the present occasion, he hoped the motion would meet with a full discussion, and in a full House; because if ever there was a case particularly entitled to the consideration of the House, it was the case of an impeachment, and a trial upon it, the managers of which had the strongest claims on the House for their protection against all libels and libellers.

The question of adjournment of the debate to the 27th was then agreed to.

May 27. The order of the day being read,

Mr. *Wigley* signified that, previous to the House proceeding to resume the debate, major Scott wished to be permitted to add a few words to his defence; which being immediately granted,

Major *Scott* desired that he might be allowed to trespass upon the patience of the House with some short remarks concerning a point in which, from what had been mentioned to him by some gentlemen, he conceived he had not made himself sufficiently understood the other night. He had meant to state that nothing was ever farther from his thoughts, than to do an act which should give offence to the House of Commons, and to express his concern, if what he had done should have that effect. At the same time, however, he must beg leave to say, that though not a very old member of parliament, he had been diligent in an attention to his duty; that he had observed, upon many great and important subjects agitated within those walls, that House had waved its privileges, and in none more than in the impeachment, and in all the discussions that led to it. Were not the charges as originally presented by a right hon. gentleman publicly sold, almost as soon as the copies were printed for this House? The articles the same? Was not a very curious letter, signed by all the managers, and sent to Mr. Francis, also printed in the newspapers? Every debate that led to the impeachment had been published, and every day's proceedings since the trial began, in more than two or three editions. He had taken the liberty to state the other night, a variety of other publications, and one in particular from a right hon. gentleman (Mr. Burke), in which he had described the conduct of the minister as more corrupt than that of Nero and all the tyrants of antiquity and modern days put together. This was a publication coolly issuing from his closet five months after he was supposed to have spoken it in this House. It was therefore a libel upon two right hon. gentlemen and upon the House. It called an act of the legislature "a compact act," and ascribed the conduct of those gentlemen to a desire to repay certain gentlemen the expense they had incurred in bringing members into this present parliament. The major concluded by saying that if he had acted wrong, he should feel as much concern as any man, but he had done so

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by following the example of those gentlemen who had made the present complaint.

The major having withdrawn, the Speaker read the following motion from the chair: viz.—"That it appears to this House, that the said letter is a scandalous and libellous paper, reflecting on the honour and justice of this House, and on the conduct of the managers appointed to manage the impeachment now pending against Warren Hastings esq."

Mr. *Wigley* said, that conceiving the apology made by the hon. member to have been sufficient for the offence, he felt it his duty to object to the motion as needless. He was always ready zealously to maintain and defend the privileges of the House, but in so doing he wished to make a distinction between a wilful breach of privilege, and a breach which might have been occasioned by the remissness and relaxation of the House as to the exercise and enforcement of their own rules. Every day afforded a proof of the remissness, of the House, by the statement in the public papers of their proceedings. The hon. gentleman had, in the present case, only answered an account of a speech which had been given the day before in the same paper, and being anxious to contradict assertions he believed to be false, he had fallen into the error complained of. He acknowledged that this was no excuse, but he wished it to be considered as an extenuation which might induce the House to receive as sufficient the apology which they had heard from the hon. member; especially as the rule of the House had not been observed with the rigour now proposed for near a century. If the House, however, should deem it proper to notice the libel complained of, they would not do justice, unless they should institute a similar proceeding against the various libels produced by the hon. member on the preceding Friday, which he (Mr. W.) would give them an opportunity of doing, by moving to enter into a committee for that purpose. Having declared that he did not say this as a threat, he made a few observations on several of the rules and orders of the House, and particularly on that which resolved that the admittance of strangers was a breach of privilege, which breach of privilege had, he observed, for several years, been wholly disregarded. Would it, he asked, be considered to be just and reasonable if the House should, after admitting strangers, order the doors to be locked, and direct their serjeant to take into custody every stranger present? He wished to compare that case with the present. He reminded the House, that they had no proof that the hon. member was the author of the libel except by his own confession, and he would appeal to every lawyer present, whether a confession ought not to be taken altogether, that the party might have the benefit of the whole of it. Had the word "false" made a part of the motion the House must necessarily have gone into a committee to inquire into and ascertain the fact before they had proceeded. In that case, there might have occured great difficulties. Whatever should be the decision of the House, he had no doubt but that it would be proper, and though but a young member, he knew his duty too well not to acquiesce in it, let it be what it might.

Mr. *Burke* said, it was with equal indignation and astonishment he discovered that, instead of an apology, instead of the hon. major's indication of repentance, the House had been additionally insulted by an audacious avowel of the libel, and a direct re-crimination upon the members of the committee of managers! For his part—and he doubted not but that he spoke the sentiment of the managers in general—he equally defied the hon. member, his friend, and his friend's friend, and all that they could effect. The argument of the hon. gentleman who spoke last tended to cut up the privileges of the House by the roots, because, if every breach of privilege was to be prosecuted, it would do more harm than good. There was scarcely a man in that House who was not every day guilty of some breach of privilege or other, but the House showed its wisdom and its prudence in passing over a great number of breaches of privilege, and noticing such only, as, from their nature, absolutely demanded the notice of the House. Did not every man know that, in cases of assault, from the mere laying a finger on another, down to direct murder, each was equally an assault: but would any person in their senses recommend the proceeding upon the stoic's principle, and equally punish every assault, the slightest as well as the most atrocious? In like manner, the present question was not what breaches of privilege had passed unnoticed, but whether a most atrocious libel on their honour and justice ought to escape

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the vengeance of that House. The libel in question was a direct attack on the managers of the prosecution of the most solemn nature, instituted by the authority of the House, while they were endeavouring to bring a criminal, loaded with an unexampled mass of crimes, to justice. Would the House suffer the delinquent to use his unjustly-acquired wealth in slandering the means by which he was to be brought to justice? It was not the matter of the libel but the vehicle of it which he condemned. With regard to the publication of speeches, the practice had obtained from the time of lord Clarendon to the present day; and when discretely exercised, no harm could result from it, but, on the contrary, much good might accrue to the public, who certainly ought to be informed of what passed in that House. A very distinguished member of that House, the late Mr. Grenville, had, by the publication of a celebrated speech of his on the Middlesex election, handed down to posterity his constitutional principles, and he had reason to believe that the practice was occasionally, and with great propriety, followed by some of the family to this day.

Mr. Burke next recurred to the conduct of Mr. Hastings and his agents. While the managers of the impeachment were discharging their duty to the House, and accusing the principal, his agents were busily employed in accusing his accusers, and the libel complained of was nothing more than the last of a long list of libels systematically manufactured by the hon. major, who, in his defence, had not said a word of all his other libels, though they were matters of the greatest notoriety. As a proof that the letter in question, flagitious as it was, was not the most atrocious of all, Mr. Burke begged leave to produce and read a paper, stating its contents to be the words of a conversation which passed between major Scott and a noble lord (Dover) when the major delivered to that noble lord the petition of Mr. Hastings to present to the House of Lords. The words used by major Scott were, that "the whole of the proceedings on the part of the managers had been in the highest degree iniquitous, cruel, and unjust." Mr. Burke commented upon the criminality of such a declaration as coming from a member of that House. He said that it was a most flagitious and outrageous libel on the managers. What was a noble lord, one of the judges who were to decide upon the cause in the conduct of which they were employed, to think of them, when they were called to carry on that cause, and a member of the House who were the prosecutors, came down from the place where he had voted the prosecution, and told one of the lords, that he was not to credit the words of the managers, because their motives were "iniquitous, unjust, and cruel?" Mr. Burke, solemnly declared, that he laid out of the question all that concerned himself. Most men, he said, were deemed partial in their own cause, and it was right that they should be so considered; but he was indifferent to all that related to himself personally. He had for ten years together, from the year 1780 down to the present time, been employed in the work of the trial, and ever since the arrival of Major Scott in England, he had been the object of the libels poured forth in such torrents against him; but that House had answered them effectually, by appointing him a member of the select committee to detect Indian delinquencies; at a subsequent period by granting him additional powers; afterwards by sanctioning the produce of his labours; and lastly, by adopting the charges, and instituting the impeachment. Their conduct in this last respect was a complete refutation of all the calumny and scandal so industriously heaped upon him. But now these harpies were not content with casting their filth on him singly, but they dared presumptuously to make the House parties, and to arraign the justice of its proceedings. For his part, he entertained an utter contempt for the whole gang of those who called themselves the friends of Mr. Hastings; but the House could not, from considerations of what was due to their own honour, disregard, what he was satisfied, was part of a system to cover the frauds, perjuries, and villanies of the delinquent, and an attempt to turn into ridicule matters the most serious and awful.

Mr. Burke declared, that the strongest sign of a depraved mind was the being able to break a wicked jest upon the most grave and important matters. It stood forward as a proof that the wickedness of a nation was rooted, and that notions of propriety and decency, were lulled to a lethargy and abandoned. Mr. Burke read the extract from the testimonies adduced in the Benares charge, and asked if such horrid barbarities as it stated,

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were fit subjects for mirth or ridicule? Having contended, that if the extract he had read was an invention, it was no invention of his, and having descanted on the affair of Deby Sing, which he declared himself ready to prove there or any where else, Mr. Burke professed himself a sincere friend to the liberty of the press, considering it as a sacred thing, and the main pillar of the constitution; but he asked, was it a proof of the liberty of the press to suffer the agent to a criminal to libel the justice of that court, before which the criminal was on his trial? He was satisfied that the House was not base enough to separate themselves from the managers, and set them like raggamuffins led to a post of danger, where they would be well peppered, without standing forward in their defence. He was not afraid of the liberty of the press, neither was he afraid of its licentiousness; but he avowed himself afraid of its venality. Mr. Hastings was able to buy up all the newspapers, and he had heard from what he deemed good authority, that 20,000*l.* had been expended in the publication of Mr. Hastings's libels. With regard to the hon. gentleman's threatened committee of inquiry into the libels published of late years, he was ready to meet the whole phalanx of India delinquents with their associates upon that subject. It was absolutely necessary that the House should proceed, as he knew it to be one of the floating opinions abroad, that the House was against the prosecution continuing any longer. If they were, they ought to have resolution enough to declare it, and discharge their managers; if, on the other hand, as he believed was the fact, the report was wholly without foundation, he was ready to go on, and to wear himself out in their service, for he thought it the most honourable one in which any man could be employed. But it behoved them to act firmly that day, since he defied any member to produce an instance in the history of this country, while the House of Commons were prosecuting a most powerful delinquent, of the managers of such a prosecution being libelled by one of their own body.

Mr. Burke ran through a long catalogue of enormous crimes, all of which he imputed to Mr. Hastings, and he defied the united calendars of gaol delivery throughout the kingdom, to produce a list of offences in any proportion in point of foulness and atrocity. The hon. major, he observed, had denied that he was agent to Mr. Hastings at present. What was he then? He was either agent or something more; he was Mr. Hastings himself. Their sexes, names, characterrs and constitution, were confounded. If he went to the India houses he saw major Scott copying out papers, and paying money for Mr. Hastings; at the House of Lords he saw major Scott presenting a petition to a noble lord, signed Warren Hastings, which major Scott had afterwards told them, in that House, was his drawing up. At their own bar they had seen articles of defence exhibited by Mr. Hastings, who had made it his boast that he had drawn those articles in five days, in answer to charges which had cost him (Mr. Burke) as many years to prepare, and afterwards, when Mr. Hastings's counsel expressed their dissatisfaction at those articles, major Scott came into Westminster-hall, and said that he and others had written them. The true name of Mr. Hastings therefore must be Legion, since every thing was done by Scott and Co. Mr. Burke declared that he was not afraid of any of the libels to which he had alluded; for they were not remarkable either for the elegance of their style, the beauty of their composition, or the force of their arguments; but such as they were, they called for the vengeance of the House, and especially the daring libel then in question, that they might mark to the whole world, their detestation of the system practised by the criminals of India, to defeat the justice of that House and of the nation.

Mr. *Pitt* said, that in the few remarks with which he should trouble the House, he meant to lay aside many of the topics introduced by the right hon. gentleman, as wholly foreign to the matter contained in the paper complained of: he should also pass over every consideration of the other libels which the right hon. gentleman had mentioned, because it was impossible for him, standing up in that House, to know any thing of them. In like manner, he should take no notice of the right hon. gentleman's aggravation of the facts contained in the charges which formed the articles of impeachment; those facts being now under the consideration of the proper tribunal, of course could not be proper subjects of discussion in that House: but with regard to the other arguments of the right hon.

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gentleman, he had not at all changed h opinion since he had declared that he thought there was matter in the articles fit for that House to carry up to the Lords in the shape of an impeachment. He therefore thought the House bound in justice and in honour, to give every proper support to the trial, and to the managers, whom they had authorised to carry it on. Whenever they had applied for the protection of the House, the House had been always ready to give it, except in the single instance of sir Elijah Impey, who certainly was in justice entitled to the interference of the House in the manner in which it had interfered. With regard to the principal charge contained in the paper complained of, it was impossible to go into discussion, because it was either a question of opinion or a question of intention; in neither of which cases could any one man judge for another; not that he meant by this remark to fix any imputation on the right hon. gentleman as to the matter alleged in the paper; no man more readily acquitted him of a pre-determination not to close the prosecution in the present session. It was equally unnecessary to investigate the truth or falsehood of the libel complained of; it was sufficient to read the paper to see what it was, and there could not be a doubt but it was a libel on the managers, and, therefore, a breach of the privileges of the House. The only question was, in what manner it ought to be taken notice of. The general purport of the motion he was ready to agree to, but it did not strike him what part of the libel would support the words "highly reflecting on the honour and justice of the House." That did not appear to him to have been made out. With regard to the libel itself, as there had certainly been for some years a relaxation on the part of that House in the practice of maintaining its privileges so rigidly as formerly, and many libels highly reflecting on the House had passed unnoticed; though such a circumstance, undoubtedly, was no justification of the paper complained of, yet every candid man would agree, that it ought to weigh in mitigation of the offence; and therefore he would recommend it to the House to take the matter up with temper and moderation, rather with a view to mark their disapprobations of such publications, and to hold out a lesson to persons to avoid incurring their displeasure in future, than by any unnecessarily harsh proceeding, to give the world reason to suppose that the motive was founded in personal resentment, or any thing that could be construed into a vindictive feeling; neither of which, he was persuaded, had the smallest influence on the minds of any gentlemen on the present occasion.

Mr. *Fox* expressed his astonishment that any person could entertain the smallest doubt, that a libel like that complained of, being directly levelled at the managers acting under the orders of the House in the prosecution of an impeachment instituted by the House itself, was not a libel in defiance of the honour and justice of that House, and the most proper of all others to take up. A libel on the House itself was not of nearly the same dangerous consequence; because the House was armed with sufficient powers to protect itself; but a libel on the managers might be considered as a libel on individuals, who were, comparatively speaking, helpless, and not having the power to protect themselves, must necessarily look to the House for protection. He reprobated the argument that the House ought to take notice of, or prosecute every individual breach of its privileges, or not to prosecute them at all. In either case, the House would act most unwisely; it was by a prudent exercise of their discretion, and by distinguishing the nature of one breach of privilege from another, that they would best preserve their privileges. Were they to prosecute in all cases of breach of privilege indiscriminately, their whole time would be spent in criminal proceedings, and the House would become a nuisance to the country, instead of a security to its liberties. If, on the other hand, they were to fall into the other extreme, and prosecute in no instance, the House would incur the public contempt, and become altogether useless. It was, therefore, a poor extenuation of any stated offence, to say that the House had neglected to take notice of other libels on the managers, and therefore it ought to be peculiarly mild in the mode of punishing the author of the libel now complained of. Was its merciful remissness in some cases any reason why it ought not to proceed with severity in cases of breach of privilege the most flagrant and outrageous? Was it an argument which would be borne in a court of justice, if, on a prosecution for a libel

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against him, it was to be said that Mr. Fox had borne a torrent of libels for 14 years together with patience, and therefore enticed the libeller, as, it were, to publish one more? On the contrary, would it not be considered, that his forbearance so long had heaped upon his libeller a debt of gratitude, which aggravated his crime, if after so long a forbearance on the part of Mr. Fox, he at last thought proper to prosecute. For his part it had been his lot, and that of his right hon. friend (Mr. Burke), to have been libelled grossly for the greater space of their political lives; but they neither of them had thought it right, from prudent motives, to take any notice, except in a single instance or two, of the libellers, and feeling that their prosecuting might be attended with rather worse general consequences than the libels did them harm, they had treated the libels and their authors with scorn and contempt; but the case was widely different between a libel on individuals in their private capacity, and individuals sanctioned by the authority of that House, and acting as managers of an impeachment instituted by that House. Neither was the fact true, as the hon. gentleman who spoke first in the debate, and the right hon. the chancellor of the exchequer had supposed, that the House had relaxed in supporting its privileges, by not taking proper notice of such breaches of its privileges as had appeared to deserve their notice. As often as a complaint had been made, the House had grounded a proceeding upon that complaint. On the subject of the present impeachment only, the paper now complained of was not the first, the second, nor the third libel, which the House had taken notice of, but the fourth that had been stated to it. The Morning Herald had been ordered to be prosecuted by the House for a libel. Another paper had been ordered to be prosecuted, and Mr. Stockdale had likewise been ordered to be prosecuted; it was true, that Mr. Stockdale had been acquitted; but that did not alter the present argument: and the printer of The World had been prosecuted likewise by order of the House, and convicted recently, within this day or two. It was not true, therefore, that this House had abandoned the defence of its privileges, by neglecting to punish breaches of them. With regard to the degree of criminality between Mr. Stockdale, or the printer of a newspaper, and major Scott, there was no comparison. A bookseller and newspaper printer could be supposed to have no personal view in the libel they published, and could only act upon public principles in the way of their profession and trade; but major Scott had no excuse of that kind; being a member of parliament, he had an opportunity of making any complaint against the managers which he thought that their conduct deserved; he might have done so fairly and openly, and had no occasion to libel the managers from one end of the kingdom to the other. If ever a libeller had justly called down the heavy vengeance of the House, it was major Scott; who, from the commencement of the proceedings on the impeachment, had systematically traduced and vilified the managers. As an argument of mitigation had been grounded on the managers having, for two years together, suffered themselves to be libelled day after day with impunity, it was fortunate they had at length taken up the matter; for, had they suffered it to go on for two years longer, that might have been held to constitute a justification of any libel against them whatever. Was it not enough for their libellers that they might drag forth every transaction of their private lives, that they might enter their dwellings, expose the weaknesses that men might naturally be imagined desirous of concealing, and, in short, trace out every single circumstance of their conduct to ground a charge of traduction upon; but they must attack them when acting in the capacity of managers of an important criminal prosecution, endeavouring to bring a great deliquent to justice, and while they were employed by the authority of that House in a great judicial proceeding, upon the event of which the future happiness of millions depended, and possibly the existence of the constitution, seeing that it was intimately connected with that House enjoying the free exercise of its inquisitorial powers, which, he contended, were struck at by the libel in question? Mr. Fox said he was glad to find that he was likely to have the vote of the chancellor of the exchequer on the present question. He agreed with the right hon. gentleman in the greatest part of his argument, but could not help differing altogether, as to the latter part of his speech, with regard to the propriety of a gentle censure. So convinced was he that the contrary ought

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to be the case, that invidious as it might appear, he should vote for the severer mode of proceeding.

Mr. *Dundas* said, that he rose merely to remark on certain parts of his right hon. friend's speech, which the right hon. gentleman who had just sat down had completely mistaken. The right hon. gentleman had talked of the forbearance of an individual, and had added, that there arose out of that forbearance to punish his libeller a debt of gratitude which made his again libelling him more atrocious. Undoubtedly, the argument was true; but the forbearance of an individual had been no part of the argument of his right hon. friend, who had argued on the forbearance of that House of late years in almost all cases of libel touching its proceedings, a fact which was undeniable, and which had been exemplified in a variety of instances. When the right hon. gentleman took such pains to point out the enormity of a libel on the managers of the impeachment, he hoped he did not mean to lay it down as a rule to be observed without doors, that no other libellous attacks on that House ought to be seriously treated, or taken notice of [Mr. Fox said across the table, most undoubtedly not]. The right hon. gentleman had stated such a variety of excuses for libels upon the House of a different nature, that he feared that if he had suffered what he had said to have passed unnoticed, it would have gone abroad that an impeachment and the managers of it, and all that related to them, were the only subjects on which a libel ought in that House to be deemed criminal. The fact undoubtedly was, that scarcely a session had passed of late years, without producing one libel or other on that House, or upon individual members which had not been at all seriously noticed. No later than a day or two after the debate on the motion for the repeal of the tobacco bill, a meeting was held, at the St. Alban's tavern, of the tobacco manufacturers, who drew up a set of resolutions, containing some of them as gross a libel on the proceedings of that House, and on several members for words spoken by them in their places, as ever was printed. They had done him, Mr. Dundas said, the honour to make him the object of one of the resolutions, grounded on a misrepresentation of his argument; but he had taken no notice of it, and that, because on reading it, he had not found himself angry enough with it to make it a subject of serious complaint; and for the same reason he had passed by a variety of other libels against him. It was notorious, that of late years the newspapers had gone as far as if those who conducted them thought, that there ought to be as much freedom of debate in newspapers as in that House. In regard to the general principles stated by the right hon. gentleman, he agreed with him in every one of them. The House having authorized the prosecution of the impeachment, they were bound to support the managers. No gentleman could be ignorant that the conduct of the impeachment was a very arduous task, and that the managers had a variety of obstructions to encounter. In proportion, therefore, as the task was arduous, and as impediments occurred, in the same proportion ought that House to grant the managers their fullest countenance and support. With regard to the present case, it was undoubtedly a libel upon the managers: but although he would agree with the motion, declaring it to be a libel, yet when the particular situation of the hon. gentleman who had avowed himself to be the author, was recollected; when a due allowance was made for the hon. gentleman's zeal for his friend, and various other circumstances which belonged to his character, were considered, although they could not plead a justification of the letter, they ought, in his mind, to go a great way in extenuation.

The motion was then put and agreed to.

General *Burgoyne* next moved, "That John Scott, esq., a member of this House, being, by his own acknowledgment, the author of the said letter, is guilty of a violation of his duty as a member of this House, and of a high breach of the privilege of this House."

Mr. *Pitt* said, unless it was meant to follow up the motion with some other question, or to ground some other proceeding upon it, it must either be nugatory or unnecessary, because the sense of the House could not be more strongly marked as to the nature of the letter complained of, than by the words of the motion which had already been carried. If the motion then proposed was meant to be followed up by some other, it would be but fair in the hon. general to state the nature of his intended subsequent motion.

General *Burgoyne* said, that this part

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of the business had somewhat distressed his feelings; having brought the matter before the House, he had hoped that some gentleman of greater weight and ability than he could pretend to, would have proposed the punishment which should appear the most adequate to the offence. But he was not a man to shrink from his duty, however disagreeable to his feelings; he had it originally in his intention to have moved a vote of censure, which he should yet do if called upon: the motion would be, That the said John Scott esq. for his said gross and scandalous offence be reprimanded at the bar of this House, by Mr. Speaker.

Mr. *Pitt* admitted, that after having voted the letter a scandalous libel, he could have no objection to the reprimand. He should therefore agree to the first of the two motions, provided it were amended, and the words "gross and scandalous" omitted. His reason for wishing for this amendment was, that although he saw no objection to applying the word "scandalous" to the matter of the libel, yet when they came to apply it to the person of a gentleman who was a member of that House, it might carry a construction, which, he should imagine, went far beyond the meaning of the hon. mover. With regard to the reprimand, he had no other objection than the words, "at the bar of that House." It was usual, he believed, generally to reprimand gentlemen, who were members in their places, and he should hope that there would be no objection to alter it accordingly.

This gave rise to a short conversation between Mr. Pitt, Mr. Fox, general Burgoyne, and Mr. Burke. The three latter declared that they would omit the words "gross and scandalous," not having intended that they should carry the construction to which the right hon. gentleman seemed to think they would be liable. Just as the question was about to be put, Mr. Jekyll solemnly appealing to the feelings of the House on different grounds, declared, that he had reason to believe that the sentiments of many gentlemen would go with him, when he proposed the previous question, in order to prevent a question so personal from being put. Sir W. Lowther rose to second the motion.

Mr. *Pitt* said, that painful as it was to him to differ from his hon. friends, he could not but be of opinion, that the House having voted the letter a scandalous and libellous paper, ought not, with any regard to the consistency of their proceedings, to let the matter stop there, but were bound to follow it up with something, which, though founded in moderation, should serve to mark their disapprobation of any such publication, and to hold out a lesson for the future.

Mr. *Wigley* said, that he should vote for the motion, under the confident expectation that the known humanity and tenderness of the hon. general's mind, would induce him to move for as mild a censure as the forms of the House would admit.

Mr. Jekyll having agreed to withdraw his motion, the motion of general Burgoyne, as amended, was put.

General *Burgoyne* said, that notwithstanding the personal compliment which had been paid him, he must adhere to his original motion, "that John Scott, esq. be reprimanded at the bar of this House." Considering the magnitude of the offence, he conceived that he had moved a punishment extremely mild, and was convinced, that in former times, a much more severe punishment would have been proposed.

The question being read, That the said John Scott, esq., be, for his said offence, reprimanded at the bar of this House by Mr. Speaker,

Mr. *Burke* said, that he could most sincerely assert, that he came down to the House, that day, in a temper as cool and governed as that in which he then spoke; that he had wished the measure of punishment proposed should be as lenient as was consistent with the maintenance of their own honour and dignity, and consistent with the support which the managers of a prosecution had an undoubted right to claim from the House. A right hon. gentleman (Mr. Pitt) had been pleased to observe, that he would lay out of his consideration a variety of topics, which he (Mr. Burke) had introduced, and which the right hon. gentleman had considered as foreign to the subject. But the right hon. gentleman neither had laid out of his consideration all which was not to be found in that letter, nor ought he to have done so. He alluded to matters that, in his opinion, should weigh with the House in mitigation of the hon. member's offence. If that were just, it was equally warrantable for him to insist on the matters of aggravation of the hon. member's crime, and the greatest aggravation he held in his hand: it was an account of the conversation which major

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Scott had with lord Dover, one of the judges who were to decide on the charges that constituted the impeachment. That was by far a greater libel than the paper now complained of, because it directly and broadly attacked the honour and justice of that House, declaring that the whole of the proceeding on the part of the managers was "in the highest degree iniquitous, cruel, and unjust." It was evident that although the chancellor of the exchequer had been so nice in regard to the epithets applied to major Scott, the major had not been equally sparing of epithets applied to the House and the managers. Mr. Burke laid great stress on this transaction, which, he said, had he been aware of, he would have made the ground of complaint, rather than the letter in the diary, as he considered it to be the most audacious libel he ever had heard of. With regard to the plea of major Scott's being the friend of Mr. Hastings, he knew nothing of it, nor did the House. They had known major Scott as the agent of Mr. Hastings, and therefore he had no doubt but that Hastings himself was the libeller: he mentioned the petition to the House, which major Scott had told them was his drawing up. He adverted again to the defence which had been stated at their bar, and afterwards denied; and concluded with declaring, that he knew that the natural mildness of his hon. friend's disposition would incline him to prefer a lenient, rather than a harsh punishment; that he had, if any thing, exceeded his expectation in this respect, and that although he could not but think the proposal to reprimand major Scott at the bar of the House by no means an adequate punishment, he ascribed it to prudential motives, a propensity to tenderness, and an attention to the times, rather than to his hon. friend's opinion, that it was equal to the demands of justice.

Mr. *Pitt* moved, by way of amendment, to leave out the words "at the bar of this House," and insert the words "in his place." This amendment having been stated from the chair, and the question put, that the words "at the bar of this House," stand part of the question.

Mr. *Windham* said, that his right hon. friend had plainly shown that forbearance in the managers was rather a reason, that if a libeller trespassed upon the ground of that forbearance, it ought to be considered as an aggravation of his offence, and not a mitigation; but that the fact was not, as the right hon. gentleman had stated it, for there had been no forbearance, there having been already three several prosecutions instituted on the subject of libels respecting the present trial. With regard to the liberty of the press, there was an evident distinction between its use and its abuse, and the very best way to preserve its liberty was to punish its licentiousness. This had been agreed on by all who had ever reasoned upon the subject; and surely a better mode of defining this distinction could not be adopted than by drawing the line between the free discussion of general, political, and parliamentary topics, and the discussion of judicial proceedings. In respect to the latter, it had ever been considered, that, *pendente lite*, the subject should be confined to the court in which it was trying, and on no account be made a matter of discussion without doors. And the reason was obvious; in a judicial proceeding the judges and the court could not advert to extraneous matter; they must be governed by the strictness of evidence, and confined to that alone; whereas, in regard to general political topics, much was at all times to be learnt from discussion without doors, and therefore the free discussion of such topics among the public at large was highly useful. This had been the case in regard to the tobacco business in particular, which a right hon. gentleman opposite (Mr. Dundas) had then mentioned; and it was the duty of that right hon. gentleman to have attended to the agitation of that business out of the House, as information of much importance was by such means to have been obtained upon the subject. — Having showed the manifest distinction between the unfettered discussion of political topics, and the great necessity of holding judicial proceedings sacred, Mr. Windham added, that he was actuated by no motive of vindictive feelings or personal resentment. It could not be worth a moment's consideration to him as a member of the committee of managers, nor indeed to any other member, whether the avowed author of the Letter complained of, was reprimanded at the bar or in his place; but the natural conclusion would be, that those who were for the milder censure, if they had dared to face the shame that such a proceeding would have drawn down on them, would have resisted any punishment of the author of the libel;

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but that the force of the proceeding, when once stated to the House, had compelled them to suffer some censure to be passed on the author, and that nevertheless they were determined to skreen him from justice as much as possible. This was clearly their motive, or they never would stand between him and the mild measure which had been proposed; for such, in his opinion it was, since the magnitude of the offence would, in his mind, have fully justified expulsion, and expulsion for such a crime would have been the punishment adopted by their ancestors, had the offence been committed in their days.—Mr. Windham farther remarked on the enormity of the libel, the aggravation of the offence in consequence of the author being a member of that House, and the necessity that the House should support the managers, unless they had real grounds to complain of their conduct, and in that case the complaint ought to be made formally to the House, and the grounds of it stated. Major Scott, it had been said, was entitled to be considered as the friend of Mr. Hastings, and not as his agent; this the House had yet to learn; but if it was so, he had still acted unwarrantably; because a friend might warmly defend the cause of him for whom he professed a friendship; but he was not entitled to abandon his defence, and become an accuser and an assailant of his prosecutors.

Mr. *Pitt* said, that the hon. gentleman who spoke last had thought proper to confound the forbearance of an individual with the forbearance of that House, and to set up an argument which had not been used, in order to have the satisfaction of surmounting it. He had never stated that the managers having long forborne to take notice of any libel upon them, had thereby enticed the author of the paper complained of, to libel them again: what he had argued upon was, that the House had for years notoriously relaxed in their strict adherence to its privileges, and having suffered numberless libels upon its proceedings to pass unnoticed, might have induced the author of the letter complained of, to imagine that he might, through the same channel, arraign the accusers of Mr. Hastings, and save him from the effect of a speech which had been stated in the newspaper. There was a clear distinction between the two cases, and that distinction the hon. gentleman had lost sight of. With a peculiar degree of ingenuity also, had the hon. gentleman contended, that in the case of the tobacco business, when his right hon. friend (Mr. Dundas) had stated that certain resolutions had been agreed to and published by the tobacco and snuff manufacturers, and that one of those resolutions was a personal libel upon him, that much might have been learnt from the discussion without doors, and that it was his right hon. friend's duty to have attended to what he had mentioned. This was a curious circumstance, as the resolutions to which his right hon. friend had alluded, took place after the question of the repeal was decided, and not before it. The hon. gentleman had adverted to the difference between the discussion of general political topics, and the discussion of judicial proceedings. In the latter case, the hon. gentleman had contended, that no remark on the matter in issue, or the conduct of the trial, ought to go out of the court itself. Granted—upon certain general principles, namely, that nothing touching the proceeding ought to be printed or discussed out of court, either one way or the other: but would the hon. gentleman venture to maintain, that if liberties were repeatedly taken with the character of the party accused during the trial, and the matter of charge against him aggravated without doors, in conversation, and in newspapers, that an hon. gentleman who was in the habit of asserting his innocence, might not conclude that it would be deemed no offence to answer in his friend's defence, through the same medium which was used as the vehicle of his abuse? The hon. gentleman had assumed that those who were willing to vote for the milder punishment, would have stood between major Scott and any censure, if the case had not been so very strong, that they could not with any colour of decency attempt it. This was a very extraordinary assumption; and totally unfounded as to himself. The hon. gentleman had gone still farther, and declared it was evident that in voting for the milder censure, those who took that line meant to skreen major Scott from justice. Mr. Pitt said, he would not adopt any mode of reasoning so uncandid; but it would be equally fair and equally liberal in him to infer that the hon. gentleman's pressing for the more severe censure originated in motives of spleen and cruelty. He was rather surprised at the sort of temper with which the hon.

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gentleman had delivered his sentiments on an occasion, which, above all others, called for moderation and coolness.

Mr. *Windham* said, the right hon. gentleman had observed upon his speech with some degree of triumph; but the triumph he could easily bear, since it was a triumph over the right hon. gentleman's misrepresentation of what he had said, and not over his argument, such as it really was. He could not be positive as to his words, but he could to his meaning; and sure he was, that he had never meant to observe, that the hon. gentleman had trespassed on the forbearance of the managers, and then made an argument of excuse of himself, for an additional libel out of that forbearance; although if he had said so, he conceived that he should not have argued absurdly. In like manner, he had not affirmed that it was the duty of Mr. Dundas to have attended to the resolutions of the tobacco manufacturers, as he might have learnt something from them. It was impossible that he could have said so, since the resolutions passed subsequent to the decision of the question. What he had said, was, that from the discussion of the topic of the tobacco manufacturers case without doors, much was to have been learnt.

Mr. *Fox* declared, that the principal reasons which had induced him to rise as soon as the right hon. gentleman sat down, had ceased, in consequence of the very able reply of his hon. friend; who, though he had strictly confined himself to explanation, had contrived to give a complete refutation of the arguments of the right hon. gentleman, who had complained of his right hon. friend's want of temper, although he had perceived nothing like an indication of passion, or any sort of departure from that characteristic which peculiarly distinguished his hon. friend, the being able to argue with more sedateness, and in a cooler and closer manner, than perhaps any other gentleman in that House. Perhaps the right hon. gentleman had felt sore from not having been able to find an answer to what had fallen with so much ability from his hon. friend. Be that as it might, the right hon. gentleman certainly had not been able to refute any one of his hon. friend's positions, and as the right hon. gentleman could not meet his hon. friend's distinction between the use of free discussion in cases of a general political nature and the necessary sacredness of every thing relative to judicial proceedings, which his hon. friend had so clearly laid down, and which had obviously made so strong an impression on the House, the right hon. gentleman had endeavoured to elude it, by a general disquisition on the proper rule in regard to the conduct to be preserved respecting a trial on a criminal prosecution. The calling major Scott the friend of Mr. Hastings, was a prostitution of the name of friendship for the sake of serving a temporary purpose. No man valued the virtue of friendship more than he did, and possibly an agent might feel a friendship for his employer; but the friendship alleged in mitigation of a libel, made the libel worse; for could it be an excuse to him, that an agent came to the House and said, in mitigation, that he had a friendship for his employer? With respect to the motion, he declared, that if the amendment had been "that major Scott be committed," and they on his side had been called upon to show a precedent of a case of equal enormity, in which a member had not been committed, he believed it would have scarcely proved possible for them to have found one. As to being reprimanded at the bar, there was a famous precedent in the year 1660, when Mr. Lenthall had been reprimanded at the bar, for holding a political opinion, which he (Mr. Fox) had ever considered as false and diabolical; namely, that those who had first taken up arms against Charles 1st, were as blameable as those who had been immediately concerned in his death. That opinion Mr. Lenthall had broached on his legs in the House, where the freedom of debate, and its being the duty of every member to state his opinion on any subject under discussion, one should have imagined, might have sanctioned the delivery of it; and yet Mr. Lenthall was reprimanded at the bar of their House. How much more, then, ought major Scott to be reprimanded at the bar, for one of the most deliberate, indecent, and atrocious libels on the House and the managers, and this inserted in a common newspaper, that ever was published! There were, but three species of punishment in cases of breach of privilege within the option of the House—reprimand, commitment, and expulsion. Of the first, which was the most lenient, there were two sorts, the reprimand of a member at the bar, and the reprimand of a member in his place. Was it not fair to argue,

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that if the mildest of the two were insisted on, in a fragrant and atrocious case, those who pressed for it, would have prevented any punishment, if they decently could have done so, and that they were desirous of standing between the criminal and justice? Mr. Fox agreed with his hon. friend that the offence merited expulsion.

The *Master of the Rolls* said, he could not, after what had passed, give a silent vote on the question; he declared, he should vote for the milder censure, not because he thought it an adequate punishment, for he thought it extremely light, but meaning that the hon. member who was to be the object of the censure, should feel that his punishment was a light one; not doubting but he would acknowledge that the House had dealt with him leniently, and would govern his future conduct accordingly. But though he felt in this manner with regard to the censure, he was far from meaning to justify the conduct of the hon. member, which had undoubtedly been highly criminal, the letter in question being clearly a libel, and a breach of the privileges of the House. As the object, however, was to hold out a lesson for the future, and prevent a repetition of similar offences, rather than to do any thing degrading in its mode, and grating to the feelings of the hon. gentleman, that object would be sufficiently answered by adopting the gentlest mode of reprimanding him. He was not one of those who held, that the forbearance of the House in respect to other libels was any justification of the present libel; but he did think that if they had a little more watched over all the publications respecting the trial, the House would have done their duty better. A variety of circumstances considered, the hon. gentleman stood in a very particular predicament; and though he could not then say it, he doubted not but that when the reprimand was given him, the hon. gentleman would declare, that he had been misled by the numberless publications of the speeches of the managers, and of other matters relative to the trial, which had been published in a manner highly reflecting on Mr. Hastings, and which had passed unnoticed and with impunity. He had himself seen a speech or two of the managers printed in a newspaper with comments; and therefore it was not to be wondered at, while such practices were winked at, that the hon. member should have conceived it warrantable to answer them, in order to defend Mr. Hastings from the impression that such publications might have made to his prejudice. In choosing the mode of doing so, undoubtedly the hon. gentleman had acted extremely unbecoming a member of that House; as he would learn from the Speaker, that a member of that House was to state any ground of complaint that he might have against the conduct of the managers, in the House upon his legs, and not by resorting to a newspaper to publish a libel on proceedings carried on under the authority of the House.

Mr. *Burke* protested that he had neither directly nor indirectly lent his countenance to the publication of the managers speeches; and he believed that he might safely take upon him to say as much on the part of the managers in general. He had heard that such accounts of the speeches, and of what passed in Westminster-hall, did appear from time to time in the newspapers; but he had not read them; he had merely referred occasionally to the short hand writer's notes, when he wanted to turn to any particular subject that had been discussed in the course of the trial. With regard to the speeches of the managers having appeared in the newspapers with comments, it was pretty obvious from whom such comments were most likely to come; and as to the newspapers having been open, if that could, in one view, be considered as a disadvantage to Mr. Hastings, it might in another be said that he had enjoyed his full advantage of the circumstance, since his connexion with the press was notorious, and no one had suffered less than Mr. Hastings. During the first year both sides had preserved a becoming temperance, but the next year libels had poured in as if a floodgate had been opened. In respect to the length of the trial, that was not to be imputed to the managers as a matter for which they were to blame; since they had, at the outset of the trial, offered to decide immediately upon each charge before they proceeded to establish any other. This they had done expressly in the case of the Benares charge; but it had been resisted by Mr. Hastings, who had desired that the managers might go through with the whole before he made his defence; and that request the House of Lords had granted. This was a manifest advantage to Mr.

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Hastings, while at the time it clearly proved, that no person but Mr. Hastings himself was to blame for the delay.

The question was then put, that the words, "at the bar of this House," stand part of the question, which was negatived. It was next put, that the words "in his place," be inserted, which was carried in the affirmative. The question was last put on the amended motion, which was also carried without a division. Mr. Pitt, to render the proceeding complete, moved, "That John Scott, esq. do attend in his place to-morrow." Which was agreed to.

May 28. The order of the day for the attendance of Major Scott in his place having been moved and read, Mr. Carew moved, that strangers be desired to withdraw previous to the proceeding on the order, out of a regard to the dignity of the House, and the delicacy of the proceeding; the gallery was, therefore, cleared. John Scott, esq. attending in his place, according to order, was reprimanded by Mr. Speaker, in the following manner:

"Mr. Scott; The House have resolved that you, being the author of a letter, which the House have declared to be a scandalous and libellous paper, reflecting on the honour and justice of this House, and on the conduct of the managers appointed to manage the impeachment now depending against Warren Hastings, esq. are guilty of a violation of your duty as a member of this House, and of a high breach of the privilege of this House.

"On the nature and magnitude of your offence it is unnecessary for me to dwell: whatever has a tendency to depreciate the honour and justice of this House, particularly in the exercise of its inquisitorial functions, tends, in the same proportion to weaken and degrade the energies and dignity of the British constitution.

"The privileges of this House have a claim to the respect of every subject of this country; as a member of this House, it is your duty, as it is a part of your trust, to support and to protect them. Had a sense of these obligations produced its due influence on your mind and conduct, you would have avoided the displeasure of the House, and I should have been spared the pain of declaring to you the result of it. The moderation of the House is not, however, less manifest on this occasion than their just sense of their own dignity, and of the importance of their own privileges. It is my duty, in addressing you, to be guided by the lenity which marks their proceedings; and, in the persuasion that the judgment of the House will operate as an effectual admonition to yourself and to others. I forbear to say more than that the House have directed, that I reprimand you for your said offence:—and, in obedience to their commands, I do reprimand you accordingly.

Major *Scott* said: "Mr. Speaker; I beg leave to return you my warmest acknowledgments for the very handsome and liberal manner in which you have executed the orders of the House. I can only repeat, Sir, what I have twice said before, that I had not the most distant idea of violating any privilege that the House in its wisdom would choose to enforce. Having diligently attended my duty since I have been a member, I have observed that gentlemen of the first consideration have been in the habit of publishing to the world their sentiments upon the most important transactions in this House—If I have been led into an error, it has been by taking these great authorities for my guide: I can only express my concern that by so doing I have drawn upon myself the censure of this House; and I again beg leave, Mr. Speaker, to repeat my sincere thanks to you for the polite and candid manner in which that censure has been conveyed."

Ordered, *nem. con.* That what has been now said by Mr. Speaker, upon reprimanding the said John Scott, esq. be printed in the votes of this day.

Unconstitutional Interference of the Military.] June 3. As soon as the Lords were met,

Lord *Rawdon* rose to speak to a subject that he considered of the greatest importance to their lordships, and which he doubted not would draw forth their most serious attention. His lordship said he was a military man, and feeling for the character of military men, was his reason for standing forward on the present occasion, he having been informed of a circumstance that had that day taken place disgraceful to the character of a soldier. A noble lord (Hawkesbury) had on his way to that House been insulted in his carriage in the most gross and wanton manner: it was his sincere wish that the

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noble lord would state the case more fully to their lordships, and by a complaint of the outrage, claim the privilege to which he was entitled.

Lord *Hawkesbury* said, he would shortly state to their lordships the plain and simple facts. His lordship said, that when coming down Parliament-street he saw, just before his carriage, a loaded cart permitted to pass without interruption; upon his carriage coming up, the guards stopped it, and ordered the coachman peremptorily to return; his lordship immediately informed the guard who he was, and that he was going to the House of Peers: to this information he received the most insulting language, and outrageous behaviour, the soldiers striking his horses and his servants, and threatening to proceed to the extremity of violence if they did not immediately return; his servants acting in their own defence, a scuffle ensued between them, and the guards, in which many blows were given; the carraige was not however permitted to pass. His lordship said, he would offer no motion upon the circumstances he had related; he wished however their lordships to consider what might be the consequences of suffering such an insult to pass unnoticed, and should be glad to hear the sentiments of the noble and learned lord on the woolsack upon the occasion.

The *Lord Chancellor* said, the case was of the utmost importance, and it was incumbent upon their lordships to take it up in the most serious manner, and to proceed in the necessary measures to support and maintain their dignity; the most regular way, and that which appeared to him to be most consonant to strict justice was, to inquire of the secretary at war, the names of the officers on duty, and afterwards to inquire into the orders given by them to the soldiers. His lordship said he would take on himself the inquiry, and would report the result thereof to the two noble lords who had brought the business before the House; the conduct of the guards might be then compared with their orders, and their lordships would then act as the circumstances of the case might require.

Lord *Cathcart* offered in excuse for the officers, that on occasions like the present the civil power was obliged to be aided by the military to keep the peace; if any excesses had been committed, it was most likely that they had been committed by the intemperance of the men, without the sanction or knowledge of their officers, who were not probably, to blame.

The *Lord Chancellor* immediately said, that for an insult like the present, offered to a member of that House, no plea whatever could be received as an excuse; their lordships must, in justice to themselves, enter into the most serious inquiry and proceedings on the subject.

The Speaker's Speech to the King.] June 10. The King came to the House of Peers, in the usual state, and being robed, and seated on his throne, the Gentleman Usher of the Black Rod was ordered to the House of Commons, to command their attendance in the House of Peers. The Commons immediately came, with their Speaker, and being at the bar,

The *Speaker* addressed his majesty in a speech, in which he informed his majesty, "that his faithful Commons had compleated the supplies requisite for the service of the current year; that they had manifested their loyalty and their attachment to his majesty's person and government, by their uniform attention and diligent exertions in the passing of such bills as were most likely to conduce to the honour and dignity of his majesty's Crown, and that they had endeavoured in all their proceedings, to act up to the character of a great, a loyal, and a free people. That they could not but contemplate with peculiar satisfaction the growing produce of the revenue, the rapid progress of our manufactures, and the general increase of commerce and trade; all circumstances affording the most flattering proofs of the prosperous state of the country. That they had no doubt but that his majesty participated with them in the satisfaction afforded by the contemplation of these great and important objects. That they were well aware, that one principal cause, among many others, to which these essential national benefits were to be ascribed, was the continuance of peace; but sensible as they were of the blessings he had enumerated, and anxiously desirous of rendering them permanent, as they sincerely professed to be, they had lately afforded his majesty a substantial proof, that it was their unanimous opinion, that peace ought not to be maintained, but on such terms as should be strictly consistent with the honour of his majesty's Crown, and the interests and

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welfare of his subjects; and that opinion, they humbly trusted, would be honoured with the sanction of his majesty's most gracious approbation."

The King's Speech at the Close of the Session.] His majesty then delivered the following Speech to both Houses:

"My lords and gentlemen;

"The necessary public business being now concluded, I think it right to put an end to this session of parliament.

"I have not hitherto received the answer of the court of Spain to the representation which I have directed to be made at that court, in support of the dignity of my Crown, and of the interests of my people. I continue to entertain the strongest desire for the maintenance of peace on just and honourable grounds; but, under the present circumstances, I feel it indispensably necessary to proceed with expedition and vigour in those preparations, the objects of which have already received your unanimous concurrence.

"The assurances and conduct of my allies, on this interesting occasion, have manifested in the most satisfactory manner their determination to fulfil the engagements of the existing treaties; and I trust, that our mutual good understanding and concert will be productive of the happiest effects in the present conjuncture of affairs in Europe.

"Gentlemen of the House of Commons;

"I return you my particular thanks for the readiness with which you granted the supplies for the current service, and for your unanimity and dispatch in enabling me to take those measures which the present crisis has rendered necessary.

"My lords and gentlemen;

"As I think it may be of material convenience that the election of a new parliament should take place without delay, it is my intention forthwith to give directions for dissolving the present, and for calling a new parliament. But, in signifying to you this intention, I cannot omit to assure you of the deep and grateful sense which I must ever entertain of that affectionate and unshaken loyalty, that uniform and zealous regard for the true principles of our invaluable constitution, and that unremitting attention to the happiness and prosperity of my people, which have invariably directed all your proceedings.

"The rapid increase of our manufactures, commerce, and navigation, the additional protection and security afforded to the distant possessions of the empire, the provisions for the good government of India, the improvement of the public revenue, and the establishment of a permanent system for the gradual reduction of the national debt, have furnished the best proofs of your resolution in encountering the difficulties with which you had to contend, and of your steadiness and perseverance in those measures which were best adapted to promote the essential and lasting interests of my dominions.

"The loyalty and public spirit, the industry and enterprise of my subjects, have seconded your exertions. On their sense of the advantages which they at present experience, as well as on their uniform and affectionate attachment to my person and government, I rely for a continuance of that harmony and confidence, the happy effects of which have so manifestly appeared during the present parliament, and which must at all times afford the surest means of meeting the exigencies of war, or of cultivating with increasing benefit the blessings of peace."

The Lord Chancellor then, by his majesty's command, prorogued the parliament to the 3rd of August. It was afterwards dissolved.

FIRST SESSION OF THE SEVENTEENTH PARLIAMENT OF GREAT BRITAIN.

Meeting of the New Parliament.] November 25, 1790. This being the day appointed for the meeting of the New Parliament, his majesty went down to the House of Peers in the usual state, and the Commons being sent for, the Lord Chancellor signified, that it was his majesty's pleasure to defer declaring the causes of assembling the parliament, until the Commons had chosen a Speaker. He therefore directed them to choose a fit person to be their Speaker, and to present him for his majesty's approbation on the following day.

Mr. Addington chosen Speaker.] The Commons having returned to their own House,

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The *Master of the Rolls* rose and observed, that it was scarcely necessary to impress upon the recollection of the House, that, being assembled in parliament, according to ancient usage, it became their indispensable duty immediately to proceed to the choice of a Speaker. It was usual for those who stood up to bring forward the sort of motion which he meant to offer to the consideration of the House, to enter into a detail of the qualifications of the person whom he was about to propose to fill the vacant chair, and to pronounce a panegyric on his merit. Had he been inclined to follow the example, he was persuaded he had an extensive field for the display of eulogiums upon the conduct and character of the right hon. gentleman he intended to propose; happily for him, however, he was prevented from the necessity of taking up the time of the House, by his having observed that there was more than a majority of members present, with whom he had sat in the last parliament, and who, he had not the smallest doubt, would concur with him in his declaration, that the right hon. member whom he should name as a fit object of the choice of the House, was a gentleman of profound learning, tried abilities, and acknowledged judgment. He would refrain, therefore, from entering upon that topic, the enlargement of which, from what he knew of his right hon. friend, could not but sensibly wound the delicacy of his feelings, however, it might afford a bare testimonial of the truth, and gratify his own mind, fraught as it was by thorough conviction on the subject. He trusted, that the motion he should conclude with, would meet with the unanimous consent of all who heard him. To those who were new members, it would be sufficient for him to remind them, that the office of Speaker was of the highest importance; that it required great ability and great judgment to discharge it to the satisfaction and credit of the House; that, among other qualifications, it was essentially necessary to combine that knowledge of business, that dignity of conduct, and that suavity of manners, which could at once command respect, and conciliate esteem. It had been their misfortune to lose several members whose known parliamentary experience made them the most competent judges of the impartiality, firmness, and fidelity with which his right hon. friend had discharged the duties of his high office. Those gentlemen had, in a most distinguished manner, afforded a recent proof of the sense imprinted in their minds, of the correctness, propriety, and merit of his right hon. friend's conduct in the chair; and though he could not call upon them at that moment to testify the truth of what he said he would appeal to every individual present who, had enjoyed a seat in the last parliament, whether he was not strictly founded in every word which he had uttered. The master of the rolls concluded with moving, "That the right hon. Henry Addington do take the Chair of this House."

Mr. *Edward Phelips* rose to second the motion, and remarked that, after what the House had heard so ably stated in recommendation of his right hon. friend, it was far from his wish to delay their coming to a unanimous vote on the question; but he could not resist trespassing so far upon the patience of the House, as to state shortly a few of the reasons which operated upon his mind as irresistible inducements to second the motion of his right hon. friend. The right hon. gentleman named as a fit person to fill the chair, possessed, in an eminent degree, the qualifications of the scholar and the gentleman. His extensive learning and his cultivated talents, furnished the source whence flowed that urbanity of manner and firmness of mind which enabled him to guide and meliorate the temper of the House rather by the gentle influence of example, than by the magisterial exertion of authority. Those gentlemen who sat in the late parliament were well apprised of the dignity, the mildness, and the impartiality, which had been the distinguishing characteristics of his right hon. friend's conduct. He was persuaded that his right hon. friend would continue to act in the discharge of the duty of his high office in a manner which would fully justify the House in their choice.

A general call was made upon Mr. Addington, as soon as Mr. Phelips sat down, when,

Mr. *Addington* rose. He declared that he should not feel himself in any degree discharged from the load of obligation with which he was oppressed, if he suffered the House to proceed to a vote upon the present question, without expressing the deep sense of grateful satisfaction that he felt from the manner in which his friends had suffered their partiality to influence them in his favour,

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and if he were not to declare, that there were circumstances that rendered the satisfaction in question a qualified satisfaction. His honourable friends had said so much of his past conduct in that high office to which the late House of Commons had elected him, that it was necessary for him to declare, in the strongest terms, that while he was sensible of the kind interpretation of that House of parliament, he could not look back, without a consciousness that there had been many defects in his mode of endeavouring to discharge his duty. Scarcely on any occasion had he been able to act up to his own conceptions upon the subject; and sure he was, that if he could have fulfilled those conceptions, his efforts would have fallen far short of the magnitude of the object. The retrospect, therefore, however favourable the construction might be that his friends put upon it, presented to his mind rather an image of unmerited success, than of actual attainment of that end, which he had no scruple to declare he had uniformly made it his object to reach. He well knew that the office of Speaker of that House, was a situation which few were qualified to fill with advantage to the public or credit to themselves. It required great abilities, solid judgment, a thorough knowledge of the principles of our constitution, and a sincere attachment to those principles, added to a profound reverence for the rights and privileges of that House, upon which the preservation of the constitution so intimately and immediately depended. Mr. Addington declared, that he was so oppressed by the sensibility which the conduct of the House in general and the particular kindness of his hon. friends had inspired, that he would no longer trespass upon the patience of the House, but submit himself implicitly to their judgment and disposal.

There being a general cry of "Chair, chair!" the master of the rolls and Mr. Phelips left their places, and led Mr. Addington to the chair, with the marked and unanimous concurrence of the House. As soon as he had reached the first step, Mr. Addington turned round, and reminded the House, that their decision was not yet final, and that it was still in their power to reconsider the question, and improve their nomination to the chair. Upon which, there was a general exclamation of "No! by no means." Mr. Addington then took the chair, and begged leave to return his humble acknowledgments to the House for the great honour they had been pleased to confer upon him, by unanimously choosing him to be again their Speaker.

List of the House of Commons.] The following is a list of the members of the House of Commons:

A LIST OF THE HOUSE OF COMMONS, IN THE SEVENTEENTH PARLIAMENT OF GREAT BRITIN, WHICH MET AT WESTMINSTER, NOV. 25, 1790.

Abingdon, Berkshire.
Edward Loveden Loveden.
Agmondesham, Bucks.
William Drake. William Drake, junr.
St. Alban's, Herts.
Hon. Rich. Bingham. John Calvert, junr.
Aldborough, Suffolk.
Lord Grey. Hon. Thomas Grenville.
Aldborough, Yorkshire.
John Galley Knight. R. M. T. Chiswell.
Andover, Hants.
Benj. Lethieullier. William Fellows.
Anglesea.
Hon. William Paget.
Appleby, Westmoreland.
Richard Ford. Hon. Robt. Banks Jenkinson.
Arundel, Sussex.
Sir George Thomas. Henry Howard.
Ashburton, Devonshire.
Robert Mackreth. Laurence Palk.
Aylesbury, Bucks.
Scrope Bernard. Gerard Lake.
Banbury, Oxfordshire.
Lord North.
Barnstaple, Devonshire.
John Cleveland. William Devaynes.
Bath, City of.
Viscount Bayham. Viscount Weymouth.
Beaumaris, Town of.
Sir Hugh Williams, bart.
Bedfordshire.
The earl of Upper Ossory. Hon. St. Andrew St. John.
Bedford, Town of.
William Colhoun. Samuel Whitbread, junr.
Bedwin, Wilts.
Lord Down.
Beeralston, Devonshire.
John Mitford. Sir George Beaumont, bart.
Berkshire.
Geo. Vansittart. Winchcomb Henry Hastley.
Berwick, Northumberland.
Hon. John Vaughan. Hon. Chas. Carpenter.
Beverley, Yorkshire.
Sir James Pennyman, bart. John Wharton.

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Bewdly, Worcestershire.
Hon. George Fulke Lyttleton.
Bishop's Castle, Shropshire.
William Clive. Henry Strachey.
Blechingly, Surrey.
Sir Robert Clayton, bart. Philip Francis.
Bodmyn, Cornwall.
Sir John Morshead, bart. Roger Wilbraham.
Boroughbridge, Yorkshire.
Sir Richard Sutton, bart. Maurice Robinson.
Bossiney, Cornwall.
Hon. James Stuart. Humphry Minchin.
Boston, Lincolnshire.
Sir Peter Burrell, bart. Thomas Fydell.
Brackley, Northamptonshire.
John William Egerton. Samuel Haynes.
Bramber, Sussex.
Sir H. G. Calthorpe, bart. Thomas Coxhead.
Brecon, County of.
Sir Charles Gould, knt.
Brecon, Town of.
Charles Gould.
Bridgnorth, Shropshire.
Thomas Whitmore. Isaac Hawkins Browne.
Bridgewater, Somersetshire.
Hon. Vere Poulett. John Langston.
Bridport, Dorsetshire.
Charles Sturt. James Watson.
Bristol, City of.
Marquis of Worcester. Lord Sheffield.
Buckinghamshire.
Rt. hon. W. W. Grenville. Earl Verney.
Buckingham, Town of.
Rt. hon. James Grenville. George Nugent.
Callington, Cornwall.
John Call. Paul Orchard.
Calne, Wiltshire.
Joseph Jekyll. John Morris.
Cambridgeshire.
James W. Adeane. Charles Yorke.
Cambridge University.
Rt. hon. William Pitt. The earl of Euston.
Cambridge, Town of.
Francis Dickins. Hon. Edward Finch.
Camelford, Cornwall.
James Macpherson. Sir Samuel Hannay, bt.
Canterbury, City of.
George Gipps. Sir John Honeywood, bart.
Cardiff, Town of.
Hon. John Stuart.
Cardiganshire.
The earl of Lisburne.
Cardigan, Town of.
John Campbell.
Carlisle, City of.
James Clarke Satterthwaite. Edw. Knubley.
Carmarthenshire.
Hon. George Talbot Rice.
Carmarthen, Town of.
John George Philipps.
Carnarvonshire.
Robert Williams.
Carnarvon, Town of.
Lord Paget.
Castle Rising, Norfolk.
Charles Boone. Henry Drummond, junr.
Cheshire.
John Crewe. Sir R. Salusbury Cotton, bart.
Chester, City of.
Thomas Grosvenor. Viscount Belgrave.
Chichester, City of.
Thomas Steele. George White Thomas.
Chippenham, Wilts.
James Dawkins. George Fludyer.
Christchurch, Hants.
Hans Sloane. George Rose.
Cirencester, Gloucestershire.
Lord Apsley. Richard Master.
Clitheroe, Lancashire.
Sir John Aubrey, bt. Penn Asheton Curzon.
Cockermouth, Cumberland.
John Anstruther. John Baynes Garforth.
Colchester, Essex.
Robert Thornton. George Jackson.
Corff Castle, Dorsetshire.
John Bond, junr. Henry Bankes.
Cornwall, County of.
Sir Wm. Lemon, bart. Francis Gregor.
Coventry, Warwickshire.
Lord Eardley. John Wilmot.
Cricklade, Wiltshire.
John Walker Heneage. Thomas Estcourt.
Cumberland.
Sir Henry Fletcher, bt. Humphry Senhouse.
Dartmouth, Devonshire.
Edm. Bastard. Rt. hon. John Chas. Villiers.
Denbighshire.
Robert Watkin Wynn.
Denbigh, Town of.
Richard Middleton, junr.
Derbyshire.
Lord G. Cavendish. Edward Miller Mundy.
Derby, Town of.
Lord Geo. Aug. Hen. Cavendish. Edw. Coke.
Devizes, Wiltshire.
Rt. hon. Henry Addington. Joshua Smith.
Devonshire.
John Rolle. John Pollexfen Bastard.
Dorsetshire.
Francis John Browne. Wm. Morton Pitt.
Dorchester, Dorsetshire.
Hon. George Damer. Francis Fane.
Dover, Kent.
John Trevanion. Charles Small Pybus.
Downton, Wiltshire.
Hon. Bartholom. Bouverie. Sir W. Scott, knt.
Droitwich, Worcestershire.
Hon. Andrew Foley. Edward Winnington.
Dunwich, Suffolk.
Barne Barne. Joshua Vanneck.
Durham, County of.
Rowland Burdon. Ralph Milbanke.
Durham, City of.
John Tempest. William Henry Lambton.

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East Looe, Cornwall.
Hon. Wm. Wellesley Pole. Robert Wood.
St. Edmondsbury, Suffolk.
Sir C. Davers, bart. Lord Charles Fitzroy.
Essex, County of.
Thomas Berney Bramston. John Bullock.
Evesham, Worcestershire.
Sir John Rushout, bart. Thos. Thompson.
Exeter, City of.
John Baring. James Buller.
Eye, Suffolk.
R. Burton Phillipson. Hon. Wm. Cornwallis.
Flintshire.
Sir Roger Mostyn, bart.
Flint, Town of.
Watkin Williams.
Fowey, Cornwall.
Lord Shuldham. Sir Ralph Payne, k. b.
By another Indenture.
Viscount Valletort. Philip Rashleigh.
Gatton, Surrey.
John Nesbitt. William Currie.
St. Germains, Cornwall.
Marquis of Lorne. Hon. Edw. James Eliot
Glamorganshire.
Thomas Wyndham.
Gloucestershire.
Hon. Geo. Cranfield Berkeley. Thos. Master.
Gloucester, City of.
John Webb. John Pitt.
Grampound, Cornwall.
Thomas Wallace. Jeremiah Crutchley.
Grantham, Lincolnshire.
Francis Cockayne Cust. George Sutton.
Great Grimsby, Lincolnshire.
John Harrison. Dudley North.
East Grinstead, Sussex.
Nathaniel Dance. William Nisbet.
Guildford, Surrey.
Hon. Thomas Onslow. George Sumner.
Hampshire.
Sir Wm. Heathcote, bart. Wm. Chute.
Harwich, Essex.
John Robinson. Right hon. Thomas Orde.
Haslemere, Surrey.
Rt. hon. Wm. Gerard Hamilton. J. Lowther.
Hastings, Sussex.
John Stanley. Sir R. P. Arden, knt.
Haverford-West, Pembrokeshire,
Lord Kensington.
Helleston, Cornwall.
Sir Gilbert Elliot, bart. Stephen Lushington.
By another Indenture.
James Bland Burges. Charles Abbot.
Herefordshire.
Rt. hon. Thos. Harley. Sir G. Cornewall, bt.
Hereford, City of.
John Scudamore. James Walwyn.
Hertfordshire.
W. Plumer. William Baker.
Hertford, Town of
John Calvert. Nathaniel Dimsdale.
Heydon, Yorkshire.
Lionel Darell. Beilby Thomson.
Heytesbury, Wilts.
Wm. Pierce Ashe A'Court. Lord Auckland.
Higham Ferrers, Northamptonshire.
Viscount Duncannon.
Hindon, Wilts.
William Beckford. James Adams.
Honiton, Devonshire.
Rt. hon. sir Geo. Yonge, bt. Geo. Templer.
Horsham, Sussex.
Timothy Shelly. Wilson Bradyll.
Huntingdonshire.
Earl Ludlow. Viscount Hinchinbroke.
Huntingdon, Town of
John Willett Payne. Hon. J. Geo. Montagu.
Hythe, Kent.
Sir Chas. Farnaby Radcliffe, bt. Wm. Evelyn.
Ilchester, Somersetshire.
John Harcourt. Samuel Long.
Ipswich, Suffolk.
Chas. Alex. Crickett. Sir J. Hadley D'Oyley, bt.
St. Ives, Cornwall.
William Præd. William Mills.
Kent.
Filmer Honeywood. Sir Edw. Knatchbull, bt.
King's Lynn, Norfolk.
Hon. Horatio Walpole. Sir Martin Browne Folkes, bart.
Kingston-upon-Hull, Yorkshire.
Samuel Thornton. The Earl of Burford.
Knaresborough, Yorkshire.
Viscount Duncannon. James Hare.
Lancashire.
Thomas Stanley. John Blackburne.
Lancaster, Town of.
Sir George Warren, k. b. John Dent.
Launceston, Cornwall.
Hon. John Rodney. Sir Henry Clinton, k. b.
Leicestershire.
William Pochin. Sir Thomas Cave, bart.
Leicester, Town of
Thomas Boothby Parkyns. Samuel Smith.
Leominster, Herefordshire.
John Hunter. John Sawyer.
Leskeard, Cornwall.
Hon. Edw. James Eliot. Hon. John Eliot.
Lestwithiel, Cornwall.
Viscount Valletort. Reginald Pole Carew.
Lewes, Sussex.
Hon. Henry Pelham. Thomas Kemp.
Lincolnshire.
C. Anderson Pelham. Sir J. Thorold, bart.
Lincoln, City of.
J. Fenton Cawthorne. Rt. hon. R. Hobart.
Litchfield, City of.
Thomas Gilbert. Thomas Anson.
Liverpool, Lancashire.
Bamber Gascoyne. Banastre Tarleton.
London, City of.
William Curtis. Brook Watson.
Sir Watkin Lewes, knt. John Sawbridge.

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Ludlow, Shropshire.
Lord Clive. Richard Payne Knight.
Luggershall, Wiltshire.
G. Aug. Selwyn. Hon. W. Asheton Harbord.
Lyme Regis, Dorsetshire.
Hon. Henry Fane. Hon. Thomas Fane.
Lymington, Hants.
Harry Burrard. Harry Burrard.
Maidstone, Kent.
Clement Taylor. Matthew Bloxam.
Malden, Essex.
Joseph Holden Strutt. C. Callis Western.
Malmsbury, Wilts.
Paul Benfield. Benj. Bond Hopkins.
Malton, Yorkshire.
Rt. hon. Edmund Burke. Wm. Weddell.
Marlborough, Wilts.
The Earl of Courtown. Hon. Thos. Bruce.
Marlow, Bucks.
Thomas Williams. William Lee Antonie.
St. Mawe's, Cornwall.
Sir Wm. Young, bart. J. Graves Simcoe.
St. Michael, Cornwall.
David Howell. Christopher Hawkins.
Merionethshire.
Evan Lloyd Vaughan.
Midhurst, Sussex.
Hn. P. C. Wyndham. Hn. C. W. Wyndham.
Middlesex.
William Mainwaring. George Byng.
Milbourne-Port, Somersetshire.
Lord Muncaster. Wm. Coles Medlycott.
Minehead, Somersetshire.
J. Fownes Luttrell. Viscount Parker.
Monmouthshire.
John Morgan. James Rooke.
Monmouth, Town of.
Marquis of Worcester.
Montgomeryshire.
William Owen.
Montgomery, Town of.
Whitshed Keene.
Morpeth, Northumberland.
Sir J. St. Clair Erskine, bt. Francis Gregg.
Newark, Nottinghamshire.
John Manners Sutton. William Crosbie.
Newcastle-under-Line, Staffordshire.
Sir A. Macdonald, kt. Hn. J. Leveson Gower.
Newcastle-upon-Tyne, Northumberland.
Sir Matt. White Ridley, bt. C. Brandling.
Newport, Cornwall.
Viscount Fielding. Charles Rainsford.
Newport, Hants.
Viscount Palmerston. Viscount Melbourne.
Newton, Lancashire.
Thomas Peter Legh. Thomas Brooke.
Newton, Hants.
John Barrington. Rt. hn. sir R. Worsley, bt.
Norfolk.
Sir J. Wodehouse, bart. Thos. W. Coke.
Northallerton, Yorkshire.
Henry Pierse. Edward Lascelles.
Northamptonshire.
Thomas Powys. Francis Dickins.
Northampton, Town of.
Lord Compton. Hon. Edward Bouverie.
Northumberland.
Sir Wm. Middleton, bart. Charles Grey.
Norwich, City of.
Right hon. W. Wyndham. Hon. H. Hobart.
Nottinghamshire.
Ld. E. C. Cavendish Bentinck. C. Pierrepont.
Nottingham, Town of.
Robert Smith. Daniel Parker Coke.
Oakhampton, Devonshire.
John St. Leger. Robert Ladbroke.
By another Indenture.
John William Anderson. John Townson.
Orford, Suffolk.
Visc. Beauchamp. Hon. W. Seym. Conway.
Oxfordshire.
Visc. Wenman. The marquis of Blandford.
Oxford, City of.
Francis Burton. Hon. Peregrine Bertie.
Oxford, University of.
Sir Wm. Dolben, bart. Francis Page.
Pembrokeshire.
Lord Milford.
Pembroke, Town of.
Hugh Barlow.
Penryn, Cornwall.
Sir Francis Basset, bart. Richard Glover.
Peterborough, City of.
Hon. Lionel Damer. Richard Benyon.
Petersfield, Hants.
William Jolliffe. Hon. G. North.
Plymouth, Devonshire.
Alan Gardner. Sir Fred. Lemon Rogers, bt.
Plympton, Devonshire.
Philip Metcalf.
Pontefract, Yorkshire.
John Smyth. William Sotherton, jun.
Poole, Dorsetshire.
Benjamin Lester. Hon. Charles Stuart.
Portsmouth, Hants.
Sir H. Fetherstonhaugh, bt. Hon. T. Erskine.
Preston, Lancashire.
Sir Henry Hoghton, bart. John Burgoyne.
Queenborough, Kent.
Gibbs Crawford. Richard Hopkins.
Radnor, County of.
Thomas Johnes.
New Radnor.
David Murray.
Reading, Berkshire.
Francis Annesley. Rd. Aldworth Neville.
East Redford, Notts.
Earl of Lincoln. Sir John Ingilby, bart.
Richmond, Yorkshire.
The earl of Inchiquin, k. p. Lawr. Dundas.
Rippon, Yorkshire.
William Laurence. Sir G. Allanson Winn, bt.
Rochester, Kent.
George Best. Sir Rich. Bickerton, bart.

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New Romney, Kent.
Rich. Joseph Sulivan. Sir Elijah Impey, knt.
Rutlandshire.
Gerard Noel Edwards. John Heathcote.
Rye, Sussex.
Charles Long. Hon. Robt. Banks Jenkinson.
Ryegate, Surrey.
Hon. J. Summers Cocks. Jos. Sydney Yorke.
Salop, or Shropshire.
Sir Richard Hill, bart. John Kynnaston.
Saltash, Cornwall.
Edward Bearcroft. Viscount Garlies.
Sandwich, Kent.
Philip Stephens. Sir Horace Mann, bart.
New Sarum, Wilts.
William Hussey. Hon. Wm. Hen. Bouverie.
Old Sarum, Wilts.
George Hardinge. John Sullivan.
Scarborough, Yorkshire.
The Earl of Tyrconnel. Hon. Hen. Phipps.
Seaford, Sussex.
John Sargent, jun. Richard Paul Jodrell.
Shaftesbury, Dorsetshire.
Charles Duncombe, jun. William Grant.
Shoreham, Sussex.
Sir Harry Goring, bart. John Aldridge.
Shrewsbury.
William Pulteney. John Hill.
Somersetshire.
Sir John Trevelyan, bart. Edw. Phelips, jun.
Southampton, Town of.
James Amyatt. Henry Martin.
Southwark, Borough of.
Henry Thornton. Paul Le Mesurier.
Staffordshire.
Earl Gower. Sir Edw. Lyttleton, bart.
Stafford, Town of.
Hon. Edw. Monckton. R. Brinsley Sheridan.
Stamford, Lincolnshire.
Sir George Howard. Earl Carysfort.
Steyning, Sussex.
James Martin Lloyd. Henry Howard.
Stockbridge, Hampshire.
John Cator. John Scott.
Sudbury, Suffolk.
T. Cham. Crespigny. John Cox Hippesley.
Suffolk.
Sir John Rous, bart. Sir T. C. Bunbury, bart.
Surrey.
Lord W. Russell. Hon. W. Clement Finch.
Sussex.
Right hon. Thos. Pelham. Charles Lenox.
Tamworth, Staffordshire.
John Courtenay. Robert Peel.
Tavistock, Devonshire.
Richard Fitzpatrick. Hon. Chas. Wyndham.
Taunton, Somersetshire.
Alex. Popham. Sir Benj. Hammet, knt.
Tewkeshury, Gloucestershire.
Sir Wm. Codrington, bart. James Martin.
Thetford, Norfolk.
Robt. John Buxton. Jos. Randyll Burch.
Thirske, Yorkshire.
Sir Greg. Page Turner, bart. Robt. Vyner.
Tiverton, Devonshire.
Sir J. Duntze, bart. Rt. hn. Dudley Ryder.
Totness, Devonshire.
Wm. Powlett Powlett. Francis Buller Yarde.
Tregony, Cornwall.
John Stephenson. Matthew Montagu.
Truro, Cornwall.
W. Aug. Spencer Boscawen. J. Gordon, jun.
Wallingford, Berkshire.
Sir Francis Sykes, bart. Nath. W. Wraxall.
Wareham, Dorsetshire.
Lord Robert Spencer. Richard Smith.
Warwickshire.
Sir Robt. Lawley, bart. Sir Geo. Aug. Wm. Shuckburgh, bart.
Warwick, Town of.
Lord Arden. Henry Gage.
Wells, City of.
Clement Tudway. Hen. Berkeley Portman.
Wendover, Bucks.
J. Barker Church. Hn. Hugh Seym. Conway.
Wenlock, Shropshire.
Sir Henry Bridgeman, bart. Cecil Forester.
Weobly, Herefordshire.
Sir J. Scott, knt. Viscount Weymouth.
Westbury, Wiltshire.
Samuel Estwick. Ewan Law.
West Looe, Cornwall.
Sir J. Wm. De la Pole, bart. John Pardoe.
Westminster, City of.
Right hon. C. J. Fox. Lord Hood.
Westmoreland.
Sir Michael le Fleming, bart. J. Lowther.
Weymouth and Melcombe Regis.
Sir J. Murray, bart. Rich. Bempte Johnson.
Andrew Stuart. Thomas Jones.
Whitchurch, Hampshire.
Visc. Middleton. Hon. J. T. Townshend.
Wigan, Lancashire.
John Cotes. Orlando Bridgeman.
Wilton, Wiltshire.
Lord Herbert. Viscount Fitzwilliam.
Wiltshire.
Ambrose Goddard. Sir J. Tylney Long, bart.
Winchelsea, Sussex.
Viscount Bernard. Richard Barwell.
Winchester, City of.
Henry Penton. Richard Gamon.
Windsor, Berkshire.
Penyston Portlock Powney. The earl of Mornington.
Woodstock, Oxfordshire.
Sir H. W. Dashwood, bt. Lord H. J. Spencer.
Worcestershire.
Hon. Edward Foley. William Lygon.
Worcester, City of.
Edmund Wigley. Edmund Lechmere, jun.
Wootton-Bassett, Wiltshire.
Viscount Downe. John Thomas Stanley.

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Chipping-Wycombe, Buckinghamshire.
Earl Wycombe. Sir John Jervis, k. b.

Yarmouth, Norfolk.
Henry Beaufoy. Rt. hon. Chas. Townshend.

Yarmouth, Hampshire.
Edw. Rushworth. T. Clarke Jervoise.

Yorkshire.
Hen. Duncomb. Wm. Wilberforce.

York, City of.
Rich. Slater Milnes. Sir Wm. Mordaunt Milner, bart.

SCOTLAND.

Aberdeenshire.
James Ferguson.

Airshire.
Sir Adam Fergusson, bart.

Argyllshire.
Right hon. lord Fred. Campbell.

Bamffshire.
Sir James Grant, bart.

Berwickshire.
Patrick Home.

County of Caithness.
Sir John Sinclair.

County of Cromarty.
Duncan Davidson.

Dumbartonshire.
Sir Arch. Edmonstone, bart.

Dumfriesshire.
Sir Robert Laurie, bart.

Edinburghshire.
Robert Dundas.

Elginshire.
Lewes Alex. Grant, jun.

Fifeshire.
William Wemys.

Forfarshire.
David Scott.

Haddingtonshire.
John Hamilton.

Invernesshire.
Norman Macleod.

Kincardineshire.
Robert Barclay.

Kinrossshire.
George Graham.

Kirkcudbright, Stewartry.
Alexander Stewart.

Lanerkshire.
Sir James Steuart, bart.

Linlithgowshire.
Hon. John Hope.

Orkney and Zetlandshire.
John Balfour.

Peebleshire.
William Montgomery.

Perthshire.
Hon. James Murray.

Renfrewshire.
John Shaw Stuart.

Rossshire.
William Adam.

Roxburghshire.
Sir George Douglas, bart.

Selkirkshire.
Mark Pringle.

Stirlingshire.
Sir Thomas Dundas, bart.

Sutherlandshire.
James Grant.

Wigtownshire.
Andrew M'Dowall.

Royal Boroughs.

Edinburgh City.
Right hon. Henry Dundas.

Tain, Dingwall, Dornock, Wick, and Kirkwall.
Sir Charles Rose, bart.

Fortrose, Inverness, Nairn, and Forres.
Sir Hector Monro, k. b.

Elgin, Bamff, Cullen, Kintore, and Inverrourie.
Alexander Brodie.

Aberdeen, Aberbrothock, Montrose, Brechin, and Inverkervie.
Alexander Callander.

Perth, Dundas, St. Andrews, Forfar, and Cupar.
George Murray.

Anstruther East and West, Pittenween, Craill, and Kilrenny.
Sir John Anstruther, bart.

Dysart, Kirkaldy, Bruntisland, and Kinghorn.
Hon. Charles Hope.

Stirling, Innerkthen, Dumfarmlin, Queensferry, and Culross.
Sir Arch. Campbell, k. b.

Glasgow, Dumbarton, Renfrew, and Ruthlergen.
William Macdowall.

Jedburgh, Haddington, Dunbar, North Berwick, and Lauder.
Hon. Thomas Maitland.

Peebles, Lanerk, Linlithgow, and Selkirk.
William Grieve.

Dumfries, Sanquhar, Kirkcudbright, Lochmaben, and Annan.
Patrick Miller, jun.

Wigtown, Whitehaven, New Galloway, and Stranraer.
Nesbitt Balfour.

Ayre, Irvine, Rothsay, Inverary, and Cambletown.
Hon. Charles Stuart.

Return of Peers for Scotland.

Earls.	
Eglintown,	Lauderdale,
Moray,	Dumfries,
Kellie,	Balcarras,
	Breadalbane,

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Glasgow.	Lords.
Viscount.	Cathcart,
Stormont.	Elphinston, and
	Torphichen.

The above were returned as duly elected to be Twelve of the Sixteen Peers.

The Votes for the earls of Galloway, Selkirk, Stair, and Hopetown, and for lords Sommervill and Napier, were equal.

The King's Speech on Opening the Session.] Nov. 26. The Commons attended his majesty at the bar of the House of Peers; and the Speaker being approved of he humbly claimed for the House their ancient privileges; and this ceremony being over, his majesty opened the session with the following speech:

"My Lords and Gentlemen;

"It is a great satisfaction to me to inform you, that the differences which had arisen between me and the court of Spain, have happily been brought to an amicable termination.

"I have ordered copies of the Declarations exchanged between my ambassador and the minister of the Catholic king, and of the convention which has since been concluded, to be laid before you.

"The objects which I have proposed to myself in the whole of this transaction, have been to obtain a suitable reparation for the act of violence committed at Nootka, and to remove the grounds of similar disputes in future; as well as to secure to my subjects the exercise of their navigation, commerce, and fisheries, in those parts of the world which were the subject of discussion.

"The zeal and public spirit manifested by all ranks of my subjects, and the disposition and conduct of my allies, had left me no room to doubt of the most vigorous and effectual support; but no event could have afforded me so much satisfaction, as the attainment of the objects which I had in view, without any actual interruption of the blessings of peace.

"Since the last session of parliament, a foundation has been laid for a pacification between Austria and the Porte, and I am now employing my mediation, in conjunction with my allies, for the purpose of negociating a definitive treaty between those powers, and of endeavouring to put an end to the dissentions in the Netherlands, in whose situation I am necessarily concerned, from considerations of national interest, as well as from the engagements of treaties.

"A separate peace has taken place between Russia and Sweden, but the war betwen the former of those powers and the Porte, still continues. The principles on which I have hitherto acted, will make me always desirous of employing the weight and influence of this country in contributing to the restoration of general tranquillity.

"Gentlemen of the House of Commons:

"I have ordered the accounts of the expenses of the late armaments, and the estimates for the ensuing year, to be laid before you.

"Painful as it is to me, at all times, to see any increase of the public burthens, I am persuaded you will agree with me in thinking that the extent of our preparations was dictated by a due regard to the existing circumstances, and that you will reflect with pleasure on so striking a proof of the advantages derived from the liberal supplies granted since the last peace for the naval service. I rely on your zeal and public spirit to make due provision for defraying the charges incurred by this armament, and for supporting the several branches of the public service on such a footing as the general situation of affairs may appear to require. You will at the same time, I am persuaded, show your determination invariably to persevere in that system which has so effectually confirmed and maintained the public credit of the nation.

"My Lords and Gentlemen;

"You will have observed with concern the interruption which has taken place in the tranquillity of our Indian possessions, in consequence of the unprovoked attack on an ally of the British nation. The respectable state, however, of the forces under the direction of the government there, and the confidence in the British name, which the system prescribed by parliament has established among the native powers in India, afford the most favourable prospect of bringing the contest to a speedy and successful conclusion.

"I think it necessary particularly to call your attention to the state of the province of Quebec, and to recommend it to you to consider of such regulations for its government, as the present circumstances and condition of the province may appear to require.

"I am satisfied that I shall, on every occasion, receive the fullest proofs of your zealous and affectionate attachment,

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which cannot but afford me peculiar satisfaction, after so recent an opportunity of collecting the immediate sense of my people.

"You may be assured that I desire nothing so much on my part, as to cultivate an entire harmony and confidence between me and my parliament, for the purpose of preserving and transmitting to posterity the invaluable blessings of our free and excellent constitution, and of concurring with you in every measure which can maintain the advantages of our present situation, and promote and augment the prosperity and happiness of my faithful subjects.

Debate in the Lords on the Address of Thanks.]. The lord chancellor having reported his majesty's speech,

Earl *Poulet* rose, and congratulated their lordships on the dissipation of those appearances of approaching war which had lately been entertained, and especially on the circumstance of the differences with the court of Spain, being adjusted in such a manner, as to obtain for this country a suitable reparation for the injury done. The happy issue of the negociation would open new sources of commerce to the known spirit, industry, and enterprise of British merchants. This fortunate change in our affairs, he ascribed to the prudent measures of his majesty's ministers, who had given a striking proof of their exertion, by the vigorous preparations for arming, that had taken place, and in consequence of which, so powerful a fleet was enabled to put to sea in so short a period. Ministers by such wise conduct were entitled to the highest applause from their country. He rejoiced in the zeal and public spirit that had been universally manifested, and was happy to hear that the disposition of his majesty's allies had left no room to doubt of the most effectual support. His lordship farther congratulated the House on the appearance of a probability of a general peace in Europe, as the result of his majesty's mediation, in conjunction with his allies, for the purpose of negociating a definitive treaty between Austria and the Porte, of endeavouring to put an end to the dissentions in the Netherlands, and of employing the weight and influence of this country in contributing to the restoration of general tranquillity. He thought the paternal regard expressed by his majesty for the interests of his people, and his declaration that it was painful to his feelings to see any increase of the public burthens, called for their grateful acknowledgment, and he had no doubt but they would readily concur in assuring his majesty of their readiness to cooperate with the other House of parliament, in making due provision for the charge incurred by the late armament, and for supporting the several branches of the public service, on such a footing as the general situation of affairs might require.—With regard to India it could not but afford the House great satisfaction, to learn, that the British government established in that quarter of the globe had been conducted on such wise and prudent principles, that the most favourable prospect was afforded of bringing the contest in India to a speedy and successful conclusion. His lordship concluded with moving the following address:

"Most gracious sovereign;

"We, your majesty's most dutiful and loyal subjects, the lords spiritual and temporal, in parliament assembled, return your majesty our humble thanks for your most gracious speech from the throne.

"Permit us, Sir, to condole with your majesty on the loss your majesty and your royal family have sustained, by the death of his late royal highness the duke of Cumberland, whose many amiable qualities, as they had endeared him to the nation, cannot but excite universal regret for his untimely loss.

"It is with the sincerest joy that we receive from your majesty the information of the differences which had subsisted between your majesty and the court of Spain, having been happily brought to an amicable termination; and at the same time that we offer to your majesty our hearty congratulations on so happy and important an event, we beg leave to return your majesty our thanks, for having been graciously pleased to order copies of the declarations exchanged between your majesty's ambassador and the minister of the Catholic king, and of the convention which has since been concluded, to be laid before us.

"We acknowledge, with the highest gratitude, your majesty's paternal care for the national honour, and for the interests of your people, manifested by your majesty, in having, in the whole of this transaction, made it your object to obtain a suitable reparation for the act of violence committed at Nootka, and to remove the

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grounds of similar disputes in future, as well as to secure to your majesty's subjects the exercise of their navigation, commerce, and fisheries, in those parts of the world which were the subject of discussion.

"We are truly sensible of the approbation your majesty is graciously pleased to express of the zeal and public spirit manifested by all ranks of your majesty's subjects; and we learn with sincere pleasure that the disposition and conduct of your majesty's allies had left your majesty no room to doubt of the most vigorous and effectual support: but we most heartily unite with your majesty in declaring, that nothing could afford us so much satisfaction as the attainment of the objects which your majesty had in view, without any actual interruption of the blessings of peace.

"We beg leave to assure your majesty of the sincere pleasure we feel in learning that a foundation has been laid for a pacification between Austria and the Porte, and that your majesty is now employing your mediation, in conjunction with your allies, for the purpose of negociating a definitive treaty between those powers, and of endeavouring to put an end to the dissentions in the Netherlands, in whose situation your majesty, in your great goodness, has been pleased to declare you are necessarily concerned, from considerations of national interest, as well as from the engagements of treaties; and we beg leave to assure your majesty of our hearty concurrence in the benevolent principles on which your majesty has hitherto acted, and in such measures as your majesty, in your wisdom, shall think proper to pursue for employing the weight and influence of this country in contributing to the restoration of general tranquillity.

"Convinced as we are that the extent of the late preparations was dictated by a due regard to the existing circumstances, we reflect with the highest pleasure on so striking a proof of the advantages derived from the liberal supplies granted since the last peace, for the naval service; and we beg leave to assure your majesty of our utmost readiness to concur in making due provision for defraying the charges incurred by this armament, and for supporting the several branches of the public service, on such a footing as the general situation of affairs may appear to require, as well as for the invariable adherence to that system which has so effectually confirmed and maintained the public credit of the nation.

"The interruption which has taken place in the tranquillity of our Indian possessions, in consequence of the unprovoked attack on an ally of the British nation, has afforded us much concern; we reflect, however, with sincere satisfaction, on the respectable state of the British force under the direction of the government there, and on the confidence in the British name, which the system prescribed by parliament has established among the native powers in India, as affording the most favourable prospect of bringing the contest to a speedy and successful conclusion.

"We beg leave to assure your majesty, that we shall bestow the most particular attention to the state of the province of Quebec; and to the consideration of such regulations for its government as the present circumstances and condition of the province may appear to require.

"Conscious as we are of the inestimable blessings we enjoy under your majesty's mild and auspicious government, we beg leave with grateful hearts to assure your majesty of our most zealous and affectionate attachment, and of our firm reliance on your majesty's most gracious assurances of your desire to cultivate an entire harmony and confidence between yourself and your parliament, in which we shall ever most cordially unite, for the purpose of preserving and transmitting to posterity the invaluable blessings of our free and excellent constitution, and of concurring with your majesty in every measure which can maintain the advantages of our present situation, can promote and augment the prosperity and happiness of your majesty's subjects, or can evince the just and grateful sense we entertain of your majesty's paternal regard and watchful care for the rights, interests, and welfare of your faithful people."

The Earl of *Hardwicke* seconded the address. He began with declaring, that after the many pertinent observations their lordships had just heard on the subjects of his majesty's most gracious speech, from the noble lord near him, it would be unnecessary for him to detain their lordships with more than a very few words on the subject. He then insisted on the happy prospect of a continuance of peace, and the great advantage that this

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country, under its present circumstances, must necessarily derive from such a fortunate turn of affairs, which he ascribed wholly to the wisdom of his majesty's councils and the vigour of the measures which ministers had adopted to enable Great Britain to prepare against the worst, and be ready for war, should war unfortunately have proved unavoidable. The events of war were, in the nature of things, uncertain, and even could we have been assured of a successful war, we might, after years spent in infinite waste of blood and treasure, have been glad to sit down and rest from such a contest. The passions of men, his lordship observed, were but too apt to mix with their politics; and it was impossible to foresee the extent to which hostilities once commenced, would have been carried, or the degree of difficulty that Great Britain might have had to encounter a conflict, which might have been swelled to an excess of danger by the multiplication of our foes, rendered such by circumstances and time. Those who regarded the concessions from Spain as light and trivial, did not properly weigh all the relative grounds upon which the negociation originated, nor judge correctly of the value of its amicable termination. It was not merely a trade to Nootka Sound, neither was it the southern whale-fishery, valuable as both those objects undoubtedly were, that were at stake, but an object of infinitely greater importance. It was no less than the general commerce of Great Britain. No man in that assembly was, he trusted, so shallow a politician, or so ignorant of the interests of his country, as not to know that upon the preservation of the honour of the British flag every thing dear to us as a commercial nation depended. What but that could protect the enterprising and unarmed merchant in every quarter of the globe? Who therefore but must rejoice at the termination of a difference, which afforded so substantial a topic of national exultation? He trusted, on these considerations, that expensive as the late armament might have been, no man would think it an expense unnecessarily incurred. Without a powerful armament, and without showing to all the world the spirit, the firmness, and the ability of the government of this country, at all hazards, to maintain the national honour, the great objects in negociation could not have been obtained; the expense, therefore, he could not but consider as a wise one; and he flattered himself that in voting the address unanimously, and carrying it to the throne, their lordships would not only communicate to his majesty their own sense, but that of all the people of Great Britain.

Earl *Stanhope* said:—My lords, I do not rise to oppose the address moved and seconded by the noble lords, nor any part of it, nor to detract from administration any credit they may have acquired by the negociation with Spain; neither do I rise to applaud them, as I am not yet in possession of sufficient information to do either with propriety. No person can rejoice more heartily at the prospect of peace which is held out to us, than I do, nor more ardently wish for a continuance of it, being thoroughly convinced that its consequences are of the utmost importance to the prosperity of the country; but I do assert, that if we have secured that peace, it is to be attributed, not to any wisdom or foresight on our part, but, under Divine Providence, to the revolution in France; and I am sure that nothing could tend more to make it permanent, than a steady and well formed alliance with that great and free country. Now, if peace is the end that we mean by our present endeavours, we ought to cherish every means that may attain that end. But, my lords, I rise to draw the serious attention of your lordships to a very extraordinary subject, a monstrous libel against the king of England; for a libel against the king of England I certainly must call a publication that has lately appeared amongst us. This performance, my lords, is no anonymous work; it comes from no ordinary or obscure person, but is the avowed production of a person of eminence, of a name well known, of no less a man than one who was formerly first minister of state in a neighbouring kingdom; of M. Calonne, late minister of France; if your lordships will give me leave, I shall mention now what I consider as a libel on the king of England, and on this country; and I shall state the effects which this publication has already occasioned in France. M. Calonne says, my lords, speaking of something like a civil war, which he pathetically recommends, that the attempt he speaks of will meet with the support and encouragement of every crowned head in Europe, which certainly includes the king of England. I say, therefore, that it is a manifest and scandalous libel on this coun-

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try; and what no person here would ever dare to ascribe to his majesty, who has always shown the purest love for his people, and for the happiness of his country. I would not have pressed this so much upon your lordships, merely because I heard that this book had occasioned sedition in France, but, since I came to town, I have had letters from that country confirming that intelligence. We all know, that there are Scotch and Irish in France. Are we, then, to allow them to become the sacrifices to this atrocious work? If there are any in this House, if there are any in administration, who countenance such proceedings, it is full time that they should be pointed out to us and to the public, that we may know why and for whom we are to spill the blood of our countrymen, and expend their treasures. My lords, no man in this country dare ascribe motives to the king of England, far less intentions, of such pernicious tendency. Are we then to suffer this from a stranger? I consider every possible means that can tend to attach and connect this country with France, as productive of the most salutary consequences. If the wished-for alliance were completely established and confirmed, where is there a power to be found that could rival us? I likewise maintain, that every step that may alienate the interests of the two countries, or inflame the minds of the inhabitants in either country against those in the other, to be of the most seriously destructive nature.

The address was agreed to, *nem. dis.*

The King's Answer to the Lords' Address.] To the preceding Address his majesty returned this answer:

"My lords; I return you my thanks for this dutiful and loyal address. Your condolence on the loss I have sustained, by the death of my late brother the duke of Cumberland, is an additional proof of your attachment to my person and family. Your congratulations on the amicable termination of the differences which had subsisted between me and the court of Spain, are extremely acceptable to me; and your concurrence with my wishes to cultivate the utmost harmony between me and my parliament, is an additional satisfaction to me, as affording the best grounded hopes of preserving inviolate our excellent constitution, and of course contributing essentially to the general prosperity of my subjects."

Impeachment of Mr. Hastings.] Nov. 30. Mr. *Burke*, previous to the question of the address, thought it might be expected that he should draw the attention of the House to that sacred pledge of virtue, spirit, and firm perseverance, which the late House of Commons had, with its dying breath, bequeathed to them, their successors. It was customary, he knew, and he much respected the usage, that in the beginning of a session, the expressions of the duty and attachment of the people to their sovereign should precede any other declarations; but the expression for which they were now called upon, was that of respect and attachment to those principles of virtue, justice, and those ties of sympathy and humanity, congenial and common to the feelings of all good men, which bound them to each other, and were not alone important, as far as they regarded the benefit and policy of this country in particular, but the honour and interest of human nature in general. The late parliament had shown a noble, and what would prove an immortal instance of honour, feeling, and generous patriotism, in the impeachment instituted against a chief governor, who had abused the authority vested in him, and brought reproach upon the British name. Such of them as were returned to the new parliament would, he doubted not, persevere in the same principles; and he hoped the new members would not suffer themselves to be surpassed in duty, honour, or patriotism. The renewal of that trial was, at the close of the last session, fixed for the first Tuesday in this. It so happened that the present was the day appointed, but the Commons were unable to attend, seeing that there had not been time for swearing in all the members, and that respect and decency required that the speech of the sovereign should be answered with an address, anterior to their entering upon any other measure. It was on this ground of respect undoubtedly, that the subject of the address should precede the impeachment; for important as it assuredly was, still of more importance was that which involved the interest, the honour, the character, and perhaps the existence of the country. Whatever rumour or suspicion may suggest, he was not prepared to say whether this circumstance was meant from another quarter (the lords) for the purpose of interrupting or destroying a prosecution, which the people of Great Britain,

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by means of their representatives, thought it their duty to institute. But if such an intention were attempted to be carried into effect, he should consider the honour, the privileges, and the existence of the House of Commons, and their importance in the scale of legislation, to be for ever annihilated. It was not his intention to say more upon this subject at present, but to apply for information to the Speaker, who was in so great a degree the repository of the privileges and independence of the House, to know whether the proceedings of the House of Commons in the case of the impeachment of Mr. Hastings, was to be affected by any arrangements of time made by that tribunal before which they had carried it?

The *Speaker* expressed his satisfaction at having an opportunity of declaring fully, and in the most unqualified manner, that the dissolution of a parliament could not, by the constitution of Great Britain, dissolve at the same time its measures, or affect in any degree the conduct of an impeachment in which they were disposed to proceed. He hinted at the same time an opinion, that the sentiments or conduct of another House were not adverse to their renewing the proceedings on that subject; should it however be otherwise, it would unquestionably become the subject of very serious attention of the House.

Mr. *Pitt* was not sorry that the subject should have been mentioned; for should the suspicions stated by the right hon. gentleman be realized, the House must consider its privileges to be grievously invaded. He could not, however, think that the other House had that in contemplation; and as there was no other ground than suspicion, notice should be given of the time on which a motion of such consequence should, if at all necessary, be made.

Mr. *Burke* replied, that as to himself he had no objection to argue the question at that moment, or on the morrow; but as bringing it on prematurely, was perhaps equally objectionable as delay, he would leave it to the discretion of those who were aware of the other business before the House, to appoint the day on which the trial should be recommenced.

Debate in the Commons on the Address of Thanks.] Nov. 30. The Speaker repeated the King's speech to the House; and the same being read from the chair,

Mr. *Mainwaring* rose, and observed that, as a representative of a large and respectable county, most materially interested in the trade and commerce of Great Britain, he could not avoid congratulating that House, in the name of his constituents and the country at large, on the continuance of peace, and declaring that he thought the manner in which the late negociations with the court of Spain had terminated, reflected great honour on his majesty's ministers, to whose wisdom and vigour it was to be imputed. Peace was so obviously the policy of this country, a policy dictated by the soundest prudence that, in his opinion, nothing but the most irresistible necessity ought to be admitted as a justification of our going to war. He had, therefore, always considered a war as never to be entered into for the sake of the ambitious desire of conquest of territory, or extent of dominion, and that the fleets and armies of this country were not kept up for the purpose of war, but for the protection of our trade and commerce, and for the preservation of the national honour. He would not have stood up to make the motion with which he should conclude, and which he trusted, would meet with unanimous suppport, if he had not been convinced that the convention was fraught with many of the most happy consequences to Great Btitain. That was not the fit day for going into a detail of the circumstances under which the negociation had been conducted, because it would not be parliamentary to allude prematurely to those matters, authentic statements of which were not yet upon the table; but he saw ample reason to give praise to his majesty's ministers for having brought the treaty to so happy a termination; indeed, in order to evince the advantages of peace, they had only to look back for a few years, and compare the present prosperous state of the country, the extensiveness of our commerce, and our still-increasing trade, with the situation in which we stood at the end of the last ruinous and unpopular war. Compelled as we had been to arm, in order to seek reparation for the insult offered to the British flag, and to obtain satisfaction for the outrage committed at Nootka, we had the good fortune to perceive one of the most powerful fleets this country had ever equipped, actually at sea in little more than five months. Such activity and dispatch, merited acknowledgment;

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and as his majesty had been graciously pleased to assure them that his object, in the whole of the negociation, had been to obtain reparation for the violence committed at Nootka, and to remove the ground for similar disputes in future, as well as to secure to his subjects the exercise of their navigation, commerce, and fisheries in those parts of the world, he trusted that no gentleman would think of imputing blame to ministers for the expense of the armament, since not only the importance of the object required it, but the having sent out so large and powerful a fleet in so short a time, tended materially to secure to us the continuance of peace, by deterring any other power from insulting us: another circumstance that would be conducive to the same useful purpose was, the zealous disposition manifested on the occasion by his majesty's allies. The hon. gentleman then moved, "That an humble Address be presented to his majesty, to return his majesty our humble and hearty thanks for his most gracious speech from the throne:

"To condole with his majesty on the loss which his majesty has sustained by the untimely death of his royal brother the late duke of Cumberland:

"To express our sincere satisfaction, that the differences which had arisen between his majesty and the court of Spain have happily been brought to an amicable termination; and our gratitude for his majesty's goodness in having ordered copies of the declaration exchanged between his majesty's ambassador and the minister of the catholic king, and of the convention which has since been concluded, to be laid before us:

"That nothing can more evince his majesty's moderation, wisdom, and justice, than his having proposed to himself, as his objects in the whole of this transaction, to obtain a suitable reparation for the act of violence committed at Nootka, and to remove the grounds of similar disputes in future, as well as to secure to his subjects the exercise of their navigation, commerce, and fisheries, in those parts of the world, which were the subject of discussion:

"That it gives us the greatest pleasure to be informed, that the disposition and conduct of his majesty's allies concurred with the zeal and public spirit so naturally manifested by all ranks of his subjects, in ensuring to his majesty the most vigorous and effectual support; but that we are, at the same time, fully sensible that no event could have been so satisfactory as the attainment of the objects which his majesty had in view, without any actual interruption of the blessings of peace:

"That we are happy to learn, that a foundation has been laid for a pacification between Austria and the Porte, and that his majesty has employed his mediation, in conjunction with his allies, for the purpose of negociating a definitive treaty between those powers, and of endeavouring to put an end to the dissentions in the Netherlands; and that we shall at all times rejoice in seeing the weight and influence of this country directed to the wise and benevolent object of contributing to the restoration of general tranquillity:

"To assure his majesty, that his faithful Commons are deeply sensible of his majesty's paternal goodness to his people, which leads his majesty to regret any occasion of increasing the public burthens —That we are fully aware of the policy and prudence of vigorous preparations under the circumstances which lately existed, and that we cannot but reflect with great satisfaction on the striking proof which has been given of the advantages derived from the liberal supplies granted since the last peace for the naval service:

"That we shall readily make due provision for defraying the expenses of the late armament, and for supporting the several branches of the public service, on such a footing as the general situation of affairs may appear to require; and that we shall at the same time be peculiarly desirous of showing, in the strongest manner, our determination invariably to persevere in that system which has so effectually confirmed and maintained the public credit of the nation:

"That we have observed with concern the interruption which has taken place in the tranquillity of our Indian possessions; but that it affords us great satisfaction to be informed that his majesty sees so favourable a prospect of bringing the contest to a speedy and successful conclusion:

"That we shall not fail to direct our particular attention to the state of the province of Quebec, and that we shall carefully consider of such regulations for its government as the present circumstances and condition of the province may render expedient

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"That we should not faithfully represent the sentiments of a loyal and grateful people, if we were not to seek every opportunity of affording his majesty the most convincing proof of our zealous and affectionate attachment.—That if any consideration could increase the warmth of those sentiments, it would be derived from his majesty's gracious declaration of his desire to cultivate an entire harmony and confidence with his parliament, for purposes which must endear still more his majesty's name to the present age and to posterity, as long as there remains a due sense of the invaluable blessings of our free and excellent constitution, and of the numerous and increasing advantages which his subjects enjoy under his majesty's mild and auspicious government."

Mr. *R. P. Carew* observed, that there were a variety of grounds of satisfaction and applause in his majesty's Speech; but there was one subject mentioned in it, which might be considered as its prominent feature, and that was, the negociation with the court of Spain to obtain reparation for the insult to the British flag, by the outrage at Nootka, and to remove the grounds of similar disputes in future. Towards the close of the last session, his majesty had informed them of those events, and as they were forced to obtain redress either by war or reparation, the House had passed a vote to enable his majesty to prepare an armament, in case reparation could not have been obtained without a war; and they came then to learn that full satisfaction had been given, and ample reparation made, without any actual hostility; as much as could have been obtained by many years even of successful war. They had the additional pleasure to see, not a triumph of arms, but a triumph more honourable, a triumph of reason over ancient prejudice and false ambition: Spain had consented to lay aside her national pride, and treat upon reasonable terms, till at length a convention had been signed, by which Spain (taught, perhaps, by what had happened in regard to our colonies, to take care to preserve her own) agreed to give up all claim to any other parts of the westward coast of North America, but such as she had actually colonized and possessed, leaving all the rest open to the free trade of the two contracting parties; equally they saw the southern whale fishery open to our ships, and all the grounds of future dispute removed. It was not the proper province of that House to go much into the detail of foreign politics; he therefore briefly alluded to the peace between Austria and the Porte, and that between Russia and Sweden, and reminded the House of the necessity of our cultivating the connexion between Austria and the Netherlands, lest the latter should fall into the hands of another power, inimical to Great Britain. He referred to the barrier treaty, and what had passed relative to the Netherlands on former occasions, remarking, that it was always the interest and duty of this country to apply its weight and influence to prevent the increasing power of any one state, which might be prompted by overweening ambition to disturb the general tranquillity of Europe. He concluded with seconding the motion.

Sir *John Jervis*, having premised that no man was more willing than himself to testify his personal respect and affection to his sovereign, added, that he could not, however, say whether his majesty's civil servants deserved praise for their conduct relative to the convention and the negociation that produced it, because no man in that House knew, any more than he did, whether their conduct had been such as to deserve praise or blame, not having the necessary information yet before them. For his own part, he rose particularly to speak of the incomparable conduct of his majesty's naval and military servants: a conduct that did honour to themselves and to their country, and which, he believed, had never been equalled. Having had the best opportunity of witnessing it, from his station in the fleet, he should feel himself unworthy of the honour of a seat in that House, unworthy of his rank as a naval officer, and unworthy of the good opinion of the House and his own profession, which he estimated above all, if he neglected that opportunity of doing credit to the unparalleled exertions of every individual in the fleet. Sir John then read the minute of thanks from lord Howe to all the officers and seamen of the western squadron, previous to his leaving the fleet. Having gone through it, he gave the House a more particular description of what he had himself beheld; he said he had seen midshipmen and mates chearfully exerting themselves in the most industrious manner in getting ready the ships; he had seen captains paying, with the money taken out of their pockets,

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men to assist in rigging the ships, and admirals doing every thing that was possible to promote the general activity; and, as a farther good example, he had known the admirals continue on board for almost five months together, without ever coming on shore, but in cases of the most pressing emergency; he also had seen the officers conduct the ships of the squadron down the channel, with scarcely men enough on board to navigate the vessels, and drilling their men from sun-rise to sun-set with as much care and pains as were taken by a serjeant of any regiment of soldiers. In fact, every thing that men could do to manifest their zeal for the service, had been done in the most incomparable manner, both by the officers of all descriptions, and the seamen. An illustrious personage, who had the command of a ship of the line, had imitated the example with singular attention and uniform perseverance. — Nor was the praise due to the naval service alone; the military on board the fleet had also behaved most excellently, exerting themselves in concert with the ships crews, and co-operating cordially in doing every thing that could tend to get the ships ready. This unparalleled zeal and active exertion, he ascribed to two causes—the constant patronage of his majesty, and the uniform and fostering kindness of that House. Since he had come to town, he had heard that his majesty had been pleased to order that an advance of pay should be made to the officers and seamen. His majesty's intended gratuity was exactly the same that had been given to the officers and seamen of the fleet three years ago; but the circumstances of the two armaments had been extremely different: in the preparations in 1787, the officers of the fleet had scarcely had more to do than to go from their own houses on board their respective ships, and come back again; whereas in the recent instance of arming, almost every one of the captains of the western squadron would be some hundreds of pounds out of pocket, and the other officers proportionably losers. With regard to the admirals, they could not accept of any pecuniary remuneration: but he had heard that the noble earl at the head of the admiralty board had hit upon a method of reward which could not but prove highly grateful to the officers, and such as he was sure, would render the noble lord as popular in the navy as any one of his most esteemed predecessors, and that was, by a particular species of promotion. Nor would the gratification of the admirals be the only good effect that this plan would produce; party prejudice would be done away; merit, independent of political or parliamentary connexion, would meet its reward; and the service would derive a very material advantage; because, as the officers must be deemed responsible for the conduct and characters of those they recommended, no one of them would venture to give in the name of a bad man for promotion. It was rumoured that this plan of intended promotion would be opposed by those who sat on the side of the House on which he stood, and who were in the habit of opposing government; but when he considered the partiality with which the House had on all occasions treated the navy, he was persuaded the gentlemen alluded to had too much liberality to object to what could not fail to give the highest gratification to the service, and prove a most popular measure.

Mr. *Fox* begged leave to remind the House, that although on hearing the address read, there did not seem to him to be any thing in it that would induce him to do so ungracious a thing as to oppose it on the first day of the session, and break through that unanimity which the mover and seconder had said were so desirable on the present occasion, yet there were different ways of stating the grounds on which any hon. gentleman might be ready to support the motion. The hon. member who had proposed the address, began with saying, that he would not have stood up to move it, had he not been convinced of the important advantages that would in all probability result from the late convention with Spain. Mr. Fox desired to disclaim any such motive, declaring that he should vote for the address from no such conviction whatever; nay, farther, if he were convinced the convention was in the highest degree blameable, and so faulty and disgraceful in all its parts, that it would be shameful to lend it any sort of countenance, he would not vote against the address on that account, because the address had carefully avoided any mention of it, and the proper information, by which alone the judgment of the House, and of individual members, could be guided, was not before them, and it was impossible for them to try it by its true criterion,—its own relative merit. In another part

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of his speech, the hon. gentleman had, with great propriety, said, that he did not consider the convention as a fit matter to go into that day, as the papers promised were not before the House. The hon. seconder went much farther into the topic, and in a greater degree rested his argument on the idea, that by the convention the causes of similar disputes in future were effectually removed. But, for his part, he must acknowledge, that before he could bring his mind to that length, he must have better grounds for decision. He must have the convention read to him, and many necessary explanations given. The hon. gentleman sat out with laying down an opinion that he hoped every liberal man would adopt, and which no man entertained more heartily than he did, namely, that war ought not to be undertaken, whenever it could be avoided with honour, nor merely to increase dominion. Mr. Fox declared, that peace was undoubtedly preferable to war, under almost any circumstances, and most especially was it desirable for this country at present; nay, more, had this country not been an island, but a part of a continent, he should be of opinion that it would be highly impolitic and unwarrantable to make war, with a view to increase dominion. In another part of his speech, in which the hon. gentleman had taken notice of the different transactions in different parts of Europe, the hon. gentleman had stated the condition of the Netherlands, and had said, that it was policy for this country to promote the return of the Netherlands to the dominions of Austria, to prevent their falling into the hands of a neighbouring power more inimical to Great Britain. France, he had no doubt, was the power alluded to. If so, how came it that France was all of a sudden a greater object of terror than formerly? He had looked into the speech from the throne on the opening of the last session, and he could find no mention of the Netherlands at that time. The introduction of the allusion to the Netherlands had made much noise out of doors, and it had been conceived that some new treaties of a special nature had been entered into recently. All he could say was, that were the fact so, that House was ignorant of them; for not a word upon the subject of any such treaties had been laid before the House. That passage of his majesty's speech, however, had been much misinterpreted, and by the word "treaties," nothing but the treaty of Utrecht, and indeed almost all antecedent and subsequent treaties by which this country became the guarantee to Austria for the Netherlands, were, in his opinion, the treaties alluded to. But when Great Britain so became the guarantee, it must be admitted that she became the guarantee to the Netherlands that they should be governed under, and enjoy all the rights and privileges of their ancient constitution. Certainly, if the obligation to interfere with the Netherlands subsisted now, it had subsisted in equal force last year.—Mr. Fox said, he did not then wish to discuss the state of France; but whatever might be the difference of opinions on that head, all must agree that we had no danger to dread from France at present more than formerly, but rather much less, on a great variety of accounts; possibly, the language of this part of the speech might be nothing more, than its having been the desire of his majesty, from the natural goodness of his heart, to render his mediation successful in restoring general traquillity, and therefore he had chosen to express, with emphasis, his wishes for universal peace. The hon. gentleman, among his remarks on the different affairs of Europe, had taken occasion to compliment ministers on the peace concluded between Sweden and Russia. Before it was ascertained whether ministers were in any degree entitled to compliment on that subject, we should endeavour to trace how the fact actually stood; certainly, we might so far be said to have negociated with regard to that peace, as to have taken some part in endeavouring to effect the peace between the Porte and Austria, and the peace between Russia and Sweden had suddenly taken place afterwards; but if the manner in which that peace had been conducted and settled was considered, perhaps it would not be thought a very good ground of compliment to ministers. By referring to the speech, it would not be found, that the separate peace between Russia and Sweden was stated to have been produced directly by his majesty's mediation, or by the wisdom of his ministers, who, if it had depended on them, would, in all probability, have acted very differently. If, however, the separate peace that had taken place between those powers, should eventually tend to the acceleration of the

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general peace of Europe, he should consider it as a fortunate circumstance: if, on the contrary, it should, like most separate treaties of peace, operate to the protraction of the war, he should then consider it as an unfortunate event.—With regard to the affairs of Europe in general, a new order of things had lately presented itself, and the interests of different powers had taken so different a turn, as well as the weight and influence of this country relatively considered, that it was the undoubted duty of his majesty's ministers to avail themselves of the circumstance; since, if ever there was a period when this country might pick and choose her allies, this was that period. They had nothing to do but to ascertain what number of foreign allies it was absolutely necessary for this country to have, and having, upon mature consideration, made up their minds upon that point, they would then only have to consider on what conditions it would be the best policy for this country to enter into treaties, and having determined the second point, they ought to proceed immediately to form such alliances as to their judgment should appear advisable. —In that part of the speech which related to India, Mr. Fox observed, it was said, "that the confidence in the British name, which the system prescribed by parliament had established among the native powers, afford the most favourable prospect, &c." If by this was meant the general policy laid down and inculcated by the various acts of parliament respecting India, passed within these few years, which he had always considered as their best part, and which he had highly approved, namely, that we were on no account to carry on war against any of the native princes with a view to conquest, or the extension of territory, it was exceedingly proper. He had approved and applauded that policy, since it made the fundamental part of the bill which he had the honour to introduce, and which that House had passed in a former parliament. All he would say was, that most undoubtedly we must defend our allies when attacked. It was not only a principle of policy, but a principle of justice, and what no man of common sense would think of arguing against; but to extend the principle so far as to make a rupture between two native princes a pretence for our carrying on a war in India, with a view to extirpate and destroy any particular prince or nation for the sake of the acquisition of his dominions for the East India company, would be to set up the letter of the acts of parliament against their spirit and their principle. Merely to send out general instructions to our governors in India to avoid offensive war, was not a sufficient enforcement of the principle of the acts of parliament relative to the government there established; much depended on the wise and prudent choice of governors, and a variety of other circumstances necessarily connected with that important particular.—Mr. Fox, expressing a wish, that his having stated his opinions freely might not interrupt the harmony of the day, or prevent a unanimous vote. He declared for one, though he disdained avowing any approbation of the convention at that time, that he heartily agreed to the address. How far the means were wise, or the terms of the convention calculated to answer the intended purpose, would lie open to subsequent discussion; possibly, a future day would be named for taking it into consideration, or possibly, it might be laid on the table, and there suffered to remain without farther notice, as there might be those who would be better pleased with hearing terms of general praise on ministers upon the first day of the session, when neither the subject nor the means of understanding it were before the House, than to go into a discussion of its merit when the House should be enabled to try it by the proper test.

Mr. *Pitt* said, that he approved of the Address for the same reasons which had been assigned by the right hon. gentleman as the ground of his being willing to vote for it. The address appeared to him to bind no man to approve of the convention prematurely, or before the House was enabled fully to judge of its merits. The objects which his majesty had proposed to himself during the whole of the transaction which the convention terminated, were certainly such as it was the undeniable interest of this country to obtain. Whether or not the objects in question were gained by the convention, would be the fit subject of future discussion, when he hoped he should have the pleasure of hearing the right hon. gentleman's sentiments on the subject. He agreed perfectly with an hon. gentleman, that it was neither necessary nor proper to enter into a minute detail of foreign politics in that House; it was among the

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excellencies of our happy constitution, that the detail of foreign politics was, for various wise and prudential reasons, generally trusted to the consideration of the executive government. The right hon. gentleman had said, that the order of things had essentially shifted and changed throughout Europe, and that this was the most convenient period for Great Britain to pick and choose her allies. That a new order of things had arisen, and that different courts now felt different interests from those which they formerly pursued, could not be denied; but did the right hon. gentleman imagine that ministers had been so neglectful of their duty, as to wait till this moment, before they even commenced a system of foreign alliance? Was it forgotten that this country had long since adopted a system of alliance with different foreign powers, and that the wisdom of that system had been proved by the best of all possible testimonies—the experience of the many solid advantages which Great Britain had, at various times, derived in consequence of its existing treaties? Sure he was, the right hon. gentleman did not mean to be understood as the adviser of measures so destructive to public faith and so derogatory to the national character, as the violation of any one treaty at this moment in force. The system of alliance that had proved so beneficial to the country, was the system that Great Britain was bound to adhere to by every principle of national honour and justice; every measure correspondent with that system which occasion and opportunity might suggest, and which should appear to be capable of being practicably improved, would undoubtedly be seized upon. As to what the right hon. gentleman had said relative to India, it was not necessary to enter into any minute discussion of that matter at present. He agreed with the right hon. gentleman as to his construction of the spirit and principle of the late acts of parliament respecting India, but with some degree of qualification; because, although he concurred in the opinion, that it could never be just or prudent to make war in India, solely with a view to extent of dominion and the acquisition of additional territory, he would not be understood to wish to extend the principle so far as to admit, that if through ambition or violence, any ravage or insult should be committed by any native prince, who was a restless tyrant, or an ally of Great Britain, and we were forced by virtue of a subsisting treaty to enter into hostilities in support of our ally, and the war should terminate fortunately for us, we were not to take the obvious advantage of that event, and make our ally an adequate compensation for the insult and injury he might have received, or indemnify ourselves for expenses in which we might wantonly have been involved.—He would next call the attention of the House to a matter of serious importance—the preparation for the late armament. He should take the earliest opportunity of laying before the House, accounts of the expenses of the late armament, and should on Monday se'nnight bring under their consideration, not merely the supply necessary for the discharge of that expense, but the ways and means to provide for the same, thinking it most advisable that both should be considered as matters separate from the supplies and ways and means necessary for the current services of the year.

The address was agreed to *nem. con.*

The King's Answer to the Commons' Address.] Dec. 3. The Speaker reported his majesty's Answer to the Address of that House, as follows:—

"Gentlemen; I return you my warmest thanks for this very loyal address. Nothing can afford me more satisfaction than the cordial assurances which you give me of your affectionate attachment to my person and government, and of your zealous regard for the principles of the constitution, and the interest and prosperity of my people.

Copy of the Declaration and Counter-Declaration—And Convention with Spain.] Mr. Pitt presented the following papers by his majesty's command:—

Copy of the DECLARATION and COUNTER-DECLARATION, signed and exchanged at Madrid, the 24th of July, 1790.

DECLARATION.

His Britannic majesty having complained of the capture of certain vessels belonging to his subjects in the port of Nootka, situated on the north-west coast of America, by an officer in the service of the king; the undersigned counsellor and principal secretary of state to his majesty, being thereto duly authorized, declares, in the name and by the order of his said majesty, that he is willing to give satis-

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faction to his Britannic majesty for the injury of which he has complained, fully persuaded that his said Britannic majesty would act in the same manner towards the king, under similar circumstances; and his majesty farther engages to make full restitution of all the British vessels which were captured at Nootka, and to indemnify the parties interested in those vessels, for the losses which they shall have sustained, as soon as the amount thereof shall have been ascertained:

It being understood that this declaration is not to preclude or prejudice the ulterior discussion of any right which his majesty may claim to form an exclusive establishment at the port of Nootka.

In witness whereof, I have signed this Declaration, and sealed it with the seal of my arms. At Madrid, the 24th of July, 1790.

Signed,

(L. S.) LE COMTE DE FLORIDA BLANCA.

COUNTER-DECLARATION.

His Catholic majesty having declared that he was willing to give satisfaction for the injury done to the king, by the capture of certain vessels belonging to his subjects, in the bay of Nootka, and the count de Florida Blanca having signed, in the name and by the order of his Catholic majesty, a declaration to this effect; and by which his said majesty likewise engages to make full restitution of the vessels so captured, and to indemnify the parties interested in those vessels for the losses they shall have sustained; the undersigned ambassador extraordinary and plenipotentiary of his majesty to the Catholic king, being thereto duly and expressly authorized, accepts the said declaration in the name of the king; and declares that his majesty will consider this declaration, together with the performance of the engagements contained therein, as a full and entire satisfaction for the injury of which his majesty has complained.

The undersigned declares, at the same time, that it is to be understood, that neither the said declaration signed by count Florida Blanca, nor the acceptance thereof by the undersigned, in the name of the king, is to preclude or prejudice, in any respect, the right which his majesty may claim to any establishment which his subjects may have formed, or should be desirous of forming in future, at the said bay of Nootka.

In witness whereof, I have signed this Counter-Declaration, and sealed it with the seal of my arms. At Madrid, the 24th of July, 1790.

Signed,

(L. S.) ALLEYNE FITZHERBERT.

Copy of the CONVENTION between his Britannic majesty and the king of Spain. Signed at the Escurial, the 28th of October, 1790.

Their Britannic and Catholic majesties, being desirous of terminating, by a speedy and solid agreement, the differences which have lately arisen between the two crowns, have judged that the best way of attaining this salutary object would be that of an amicable arrangement, which, setting aside all retrospective discussion of the rights and pretensions of the two parties, should fix their respective situation for the future on a basis conformable to their true interests, as well as to the mutual desire with which their said majesties are animated of establishing with each other, in every thing and in all places, the most perfect friendship, harmony, and good correspondence. In this view, they have named and constituted for their plenipotentiaries; to wit, on the part of his Britannic majesty, Alleyne Fitzherbert, esq. one of his said majesty's privy council in Great Britain and Ireland, and his ambassador extraordinary and plenipotentiary to his Catholic majesty; and, on the part of his Catholic majesty, Don Joseph Monino, count of Florida Blanca, knight grand cross of the royal Spanish order of Charles 3d, counsellor of state to his said majesty, and his principal secretary of state, and of the dispatches: who, after having communicated to each other their respective full powers, have agreed upon the following articles:—

Art. 1. It is agreed that the buildings and tracts of land, situated on the north-west coast of the continent of North America, or on islands adjacent to that continent, of which the subjects of his Britannic majesty were dispossessed, about the month of April, 1789, by a Spanish officer, shall be restored to the said British subjects.

Art. 2. And farther, that a just reparation shall be made, according to the nature of the case, for all acts of violence or hostility, which may have been committed, subsequent to the month of April, 1789, by the subjects of either of the

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contracting parties against the subjects of the other; and that in case any of the the said respective subjects shall, since the same period, have been forcibly dispossessed of their lands, buildings, vessels, merchandize, or other property whatever, on the said continent, or on the seas or islands adjacent, they shall be re-established in the possession thereof, or a just compensation shall be made to them for the losses which they shall have sustained.

Art. 3. And, in order to strengthen the bonds of friendship and to preserve in future a perfect harmony and good understanding between the two contracting parties, it is agreed that their respective subjects shall not be disturbed or molested, either in navigating or carrying on their fisheries in the Pacific Ocean, or in the South Seas, or in landing on the coasts of those seas, in places not already occupied, for the purpose of carrying on their commerce with the natives of the country, or of making settlements there, the whole subject, nevertheless, to the restrictions and provisions specified in the three following articles.

Art. 4. His Britannic majesty engages to take the most effectual measures to prevent the navigation and fishery of his subjects in the Pacific Ocean, or in the South Seas, from being made a pretext for illicit trade with the Spanish settlements; and, with this view, it is moreover expressly stipulated, that British subjects shall not navigate, or carry on their fishery in the said seas, within the space of ten sea leagues from any part of the coasts already occupied by Spain.

Art. 5. It is agreed, that as well in the places which are to be restored to the British subjects, by virtue of the first article, as in all other parts of the north western coasts of North America, or of the islands adjacent, situated to the north of the parts of the said coast already occupied by Spain, wherever the subjects of either of the two powers, shall have made settlements since the month of April, 1789, or shall hereafter make any, the subjects of the other shall have free access, and shall carry on their trade, without any disturbance or molestation.

Art. 6. It is farther agreed, with respect to the eastern and western coasts of South America, and to the islands adjacent, that no settlement shall be formed hereafter, by the respective subjects, in such parts of those coasts as are situated to the south of those parts of the same coasts, and of the islands adjacent, which are already occupied by Spain: provided that the said respective subjects shall retain the liberty of landing on the coasts and islands so situated, for the purposes of their fishery, and of erecting thereon huts and other temporary buildings serving only for those purposes.

Art. 7. In all cases of complaint, or infraction of the articles of the present convention, the officers of either party, without permitting themselves previously to commit any violence or act of force, shall be bound to make an exact report of the affair, and of its circumstances, to their respective courts, who will terminate such differences in an amicable manner.

Art. 8. The present convention shall be ratified and confirmed in the space of six weeks, to be computed from the day of its signature, or sooner, if it can be done.

In witness whereof, we the undersigned plenipotentiaries of their Britannic and Catholic majesties, have, in their names, and virtue of our respective full powers, signed the present convention, and set thereto the seals of our arms.—Done at the Palace of St. Laurence, the 28th of October, 1790.

(L. S.) El Conde de Florida Blanca.

(L. S.) Alleyne Fitzherbert.

Navy Estimates.] Dec. 7. The report of the committee of supply was brought up. On the resolution "That 24,000 men be employed for the Sea Service for the year 1791, including 4,800 mariners" being read,

Mr. *Fox* reminded the House, that last year they had been called upon to vote 2000 seamen more than had the preceding year been deemed requisite for the service; it was impossible, therefore, for him, to vote for so large an increase of expense as was included in the vote of 24,000 seamen, without having some explanation, from ministers, to show that such an increase was absolutely necessary; and therefore he must request an answer to one of the two following questions; first, Whether the proposed increase of the number of seamen was occasioned by our not being able to disarm so completely nor so soon as could be wished, and therefore to be considered as a mere temporary increase? or was it thought necessary by those who from their official

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situations must be best enabled to judge of the fact, to alter the policy of the country, and depart from the system of force which had been thought adequate to the peace establishment of late years, and to incur a greater expense? In the latter case, it would be to avow, that the policy which had hitherto prevailed, in regard to the peace establishment, was, upon experience, found to be injudicious, and too small, and that a better and a different policy was necessary to be adopted in future. If the reason assigned for the increased number of seamen was, that we could not disarm immediately, and therefore that the expense was not designed to be permanent, but was merely to be considered as a temporary inconvenience, he should chearfully give his vote for the 24,000 seamen, because he thought it safer for that House to give credit to ministers for the proper motives of their conduct, and vote a useless expense, than by an ill-timed economy to refuse its assistance where the expense was unavoidable; but as he was a friend to a proper confidence in ministers, so was he a determined enemy to that blind confidence which was in fact treachery to their constituents. If, therefore, he was told that the increased expense was intended to be permanent, and that 24,000 men were to be continued as the necessary establishment of the country, before he could vote for the resolution, he must require some farther explanation than the House hitherto possessed. He lamented that the chancellor of the exchequer, Mr. Pitt, was not in his place; but as he saw those present who were in office, he hoped he should either hear, that the proposed increase of seamen, was a temporary matter, or that there were private reasons for it, which it might not be fit to communicate to that House; because, unless some such answer was given, it appeared to him that the House was just as competent to discuss the grounds of the increase of seamen, as any council of the King, or any other persons whatever

Mr. *Hopkins* said, that, from particular circumstances, it was deemed necessary to keep ten ships of the line in commission, in addition to the peace establishment hitherto adopted; and that as admiral Cornish was gone to sea with a squadron of six ships, the whole number of seamen necessary would be much larger than the number proposed; but that when the admiral returned, it was intended to pay off ten ships, and therefore 24,000 seamen was taken as a medium for the ensuing year. This mode of statement, Mr. Hopkins said, clearly in his conception, implied that it was only to be a temporary expense, and that it was by no means to be considered as a permanent establishment.

Mr. *Fox* said, that this statement clearly went to the first of the questions that he had proposed, namely, whether the increased vote of seamen arose from the circumstance of our not being able to disarm entirely at once? It therefore was to be considered as a part of the expense caused by the late armament, and as it was exceedingly material that the expense so incurred should be kept distinct from the expense of the current services of the year, he could not but observe that it was, as far as it went, a departure from the promise made to the House last week, that the whole expense of the armament should be stated, and distinctly provided for.

Mr. *Rose* assured the House, that it was Mr. Pitt's intention to bring the expense of the armament before the House in such a form, as to let them see what the whole amount was, distinctly from any part of the necessary expenses of the year.

Mr. *Pitt*, having just entered the House, observed, that he believed he had heard enough to be able to collect the meaning of the right hon. gentleman, and to give such an answer as he hoped would prove satisfactory. The right hon. gentleman's wish, he conceived, was to know whether the increased number of seaman was to be ascribed to the late armament, or to any change of policy in the country in respect to its system of force as the proper peace establishment. To neither the one nor the other could the increase be exclusively imputed, but partly to both. As it was not possible for government to disarm all at once, undoubtedly some part of the expense of the increased number of seamen might fairly be ascribed to the late armament: he did not mean, however, to say that keeping up such a number of seamen was solely owing to that event; he made no scruple to declare that there were circumstances in the present situation of Europe which occasioned his majesty's ministers to think it necessary to keep up an armament, for a time, of an increased extent, to what, were the affairs of Europe otherwise situated, they should have deemed

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necessary; but the additional expense, he trusted, would be only temporary.

Mr. *Fox* supposed that, from this fair explanation, he was now to understand from the king's minister that it was only to be a temporary expense, but that there were reasons for an addition to what had been heretofore deemed an adequate peace establishment. Under that explanation he should cheerfully vote for the 24,000 seamen.

Mr. *Pitt* desired to be correctly understood: the 24,000 seamen had not been moved under the idea of a permanent peace establishment, nor was it meant to hold out the idea that when the present circumstances altered, it would be right to go back to the former peace establishment. All that he wished was, that the House should ascribe the increased vote of seamen to its true cause, which he had before described. They had in that House frequently heard a great deal of a well-known report relative to the state of our national finances, compared with the amount of the national expenditure. He took that occasion, therefore, to observe, that they were then come to a year, when it would be necessary to examine the subject, and by a revision of the whole, ascertain how far the report to which he had alluded was correct, with regard to the peace establishment fit for this country to adopt and adhere to, and it was peculiarly proper to begin a new parliament with bringing forward the consideration of those topics. Under that idea, he should shortly bring the matter in detail under the consideration of the House.

The report was then agreed to.

Westminster Election—Petition of Mr. Horne Tooke.] December 9. Mr. Martin presented the following petition:

"To the Honourable the Commons of Great Britain, in Parliament assembled. The Petition of John Horne Tooke, esq.

"Sheweth;

"That your petitioner now is, and at the time of the last election for Westminster was, an elector for Westminster, and a candidate to represent the said city and liberty in the present parliament. That in the said city and liberty there are 17,291 householders rated in the parish books unrepresented in parliament, and without the means of being represented therein, although, by direct and indirect taxation, they contribute to the revenue of the state very considerably more than those who send a hundred members to parliament. That at each of the three last elections for Westminster (viz. in 1784, in 1788, and in 1790), notoriously deliberate outrage, and purposely armed violence was used; and at each of those elections murder was committed: that for these past outrages, as if there were no attorney general, no government, and no legislature in the land, not the least redress has been obtained, not the least punishment, nor even the least censure inflicted, nor has any remedy whatever been appointed or attempted, to prevent a repetition of similar outrages in future: that, at the election for Westminster, in 1784, a scrutiny was demanded on behalf of sir Cecil Wray, which was granted on the 17th of May, 1784, and with the approbation or direction of the then House of Commons was continued till the 3rd of March, 1785, when a very small comparative progress having been made (viz. through the small parish of St. Anne, and not entirely through St. Martin's, leaving totally untouched the parishes of St. George, St. James, St. Margaret, St. John, St. Paul Covent Garden, St. Mary le Strand, St. Clement, and St. Martin le Grand), the said scrutiny was, by the directon or approbation of the House of Commons, relinquished without effect, after having lasted ten months, and with an expense to sir Cecil Wray of many thousand pounds more than appears by some late proceedings in Chancery to be the allowed average price of a perpetual seat in the House of Commons, where seats for legislation are as notoriously rented and bought as the standings for cattle at a fair.

"That on the election for Westminster in 1788, there being an absolute and experienced impossibility of determining the choice of the electors by a scrutiny before the returning officer, a petition against the return was presented to the then House of Commons by lord Hood, and another petition also against the return was presented by certain electors of Westminster, and a committee was in consequence appointed, which commenced its proceedings on Friday, April the 3d, 1789, and continued till June the 18th, 1789, when the committee (as able and respectable as ever were sworn to try and

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determine the matter of any petition) on their oaths 'Resolved, that from the progress which the committee have hitherto 'been enabled to make since the commencement of their proceeding, as well 'as from an attentive consideration of the 'different circumstances relating to the 'cause, a final decision of the business 'before them cannot take place in the 'course of the present sessions, and that 'not improbably the whole of the present parliament may be consumed in a 'tedious and expensive litigation.'— 'Resolved, that from the necessary length 'of the proceeding, and from the approach of a general election, which 'must occur not later than spring 1791 '(nearly two years more) the prosecution of the cause on the part of the petitioners promises to be fruitless, as far 'as it respects the representation of 'Westminster in the present parliament.' 'Resolved, that it be recommended to 'the petitioners to withdraw their petitions under the special circumstances of 'the case.' That (notwithstanding this extraordinary, and perhaps unparalleled, application from a court of justice to its suitors) lord Hood, and the other petitioners, having refused to withdraw their respective petitions, the proceedings of the committee continued till the 6th of July, 1789, when a very small comparative progress having been made, the petitioners, from a conviction of the impossibility of any decision by the committee, were compelled to abandon their petitions without any effect, or tendency towards effect, after a tedious and expensive litigation of three months and three days; and with an expense to the petitioning candidate of more than 14,000*l.*

"That under these circumstances, as the petitioners declined demanding a scrutiny before the returning officer, so is he compelled to disclaim all scrutiny before a committee of the House of Commons. For although that act (the 10th of George 3d) by which the said committee is appointed, recites in its preamble, that 'Whereas the present mode of 'decision upon petitions complaining of 'undue elections or returns of members 'to serve in parliament, frequently obstructs public business, occasions much 'expense, trouble, and delay to the parties, &c. for remedy thereof, &c.' yet it would be less expensive and less ruinous to the petitioner to be impeached, even according to the present mode of conducting impeachments, and to be convicted too of real crimes, than to be guilty of attempting to obtain justice for himself, and the injured electors of Westminster, by the only mode of decision which the new remedial statute (the 10th George 3d) has appointed for that purpose, however well adapted that mode of decision may be to settle the disputed claims of the proprietors of small boroughs, for whose usurped and smuggled interests alone the framers of that bill, and of those bills which have been since built upon it, seem to have had any real concern.

"That by the 9th Anne, chap. 5, the right of electors (before unlimited by qualification in the objects of their choice) is restricted in cities and boroughs, to citizens and burgesses respectively having an estate, freehold or copyhold, for their own respective lives, of the annual value of 300*l.* above reprizes. That this very moderate restriction (however vicious in its principle), leaving all citizens and burgesses eligible possessing life estates, freehold or copyhold of the annual value of 300*l.*, will henceforth serve only as a snare to the candidate, and a mockery of the electors, if such candidate possessing a life estate of 300*l.* a-year, must expend 50,000*l.* (and there is no probable appearance that a 100,000*l.* would be sufficient) in attempting, by a tedious, expensive, and ineffectual litigation to sustain the choice of his constituents, and to prove himself duly elected.

"That though the petitioner complains (as he hereby does) of the undue election and return of lord Hood and the right hon. Charles Fox, to this present parliament, for the city and liberty of Westminster, yet is the petitioner, by a persecution and proscription of more than twenty years, disabled from making that pecuniary sacrifice, which by the present new mode of investigation is (and ought not be) necessary effectually to prove such undue return; and yet the petitioner fully trusts that notwithstanding a very great majority of the House of Commons (for so it still continues to be styled) are *not*, as they ought to be, elected by the Commons of this realm (in any honest meaning of the word "Commons") and must therefore naturally and necessarily have a bias and interest against a fair and real representation of the people; yet the petitioner fully trusts, that he shall be able to lay before a committee, 'chosen

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'and sworn to try and determine the matter of this petition,' evidence of such a nature, as that the committee will, on their oaths, 'think proper to report to 'the House some resolution or resolutions, other than the determination of 'the return, and that the House will 'make such order thereon as to them 'shall seem proper.' And the petitioner doubts not, that as an elector, at least, he shall, in consequence, receive such redress as will be much more important to him, and to the electors of Westminster, than any determination of the return."

The petition having been read,

Mr. *Pulteney* was against referring the petition to any committee, because, although it did complain of an undue election and return, yet the object of the petitioner did not appear to be the obtainment of that redress which a committee of the House, constituted under the authority of Mr. Grenville's act was enabled to give, but rather to be an invention, the object of which was ultimately to frame a bill for the general reform of parliamentary representation, and therefore it did not appear to him to be that sort of petition which the legislature had in its contemplation when it passed Mr. Grenville's act.

Mr. *Jekyll* observed, that the petition was full of matter libellous to the constitution of that House, and extremely irrelevant to the view with which election petitions were usually presented. He therefore thought that no day ought to be appointed for ballotting for a committee to try its merits, but that notice should be taken of the insult conveyed in the extraordinary language of the petition, and a censure passed upon it from the chair. He appealed to the Speaker, whether he had ever heard such a petition read before? Petitioners ought to come there with clean hands, and not load their petitions with matter that was irrelevant, impertinent, and libellous; for such he deemed the substance and the language of the present petition to be fraught with. However well its composition might be, and however fit to rank with the philosophical Diversions of Purley, he was satisfied that no day ought to be appointed for it to be taken into consideration, for which reason he moved, that it be rejected with scorn and contempt.

The *Master of the Rolls* said, the prayer of the petition was so ambiguously worded, that there was scarcely any knowing what the petition meant. If he recollected rightly, there was the phrase "other than," towards the end of it, but then the petitioner complained likewise of an undue election and return.

The petition having been in part read again,

The *Speaker* observed, that with regard to the style of the petition, he believed there could be only one opinion in that House. Every member who wished to sustain the dignity of character which every honest man must be anxious to preserve, would naturally feel the same sentiment on having heard such an outrage upon decency, and such an impudently marked contempt of that House as the petition amounted to; but there was another matter relative to the petition and that was, whether, as the petition complained of an undue election and return, the House could get rid of it under the imperative words of the act, and whether they were not compelled to name a day for its consideration, under the express words of the clause which had been read at the table.

Mr. *Pitt* admitted that the petition was undoubtedly an outrage upon decency, and a libel upon parliament, but he trusted that the character of that House was, at all times, so superior to such an attack, that it would, perhaps, be descending too low, to notice it at all. With regard to appointing a day for considering it, the letter of the law, which prescribed the rules of proceeding in all cases of election petitions, must be obeyed. Whether any notice should be taken of the violent outrage upon their dignity, or whether it should be treated with contempt and scorn, was a question for another day, when, if the contempt and scorn it merited were not sufficient in the eyes of any gentleman, other modes of punishment were in their power; but the question immediately before them was, whether the words of the act, which were clearly imperative, did not leave the House without any option, and made it impossible that they should act otherwise than name a day for the consideration of the petition.

Mr. *Pulteney* still contended that the petition ought to be rejected, which he the rather advised, since no injury could be done to the petitioner by it, as he might offer another petition properly drawn up and fit for the House to enter-

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tain before the fourteen days, to which the receipt of election petitions was limited, should have expired. To argue that, because the petitioner had used the words that "he complained of an undue election and return," in a petition, which states that the petitioner had no hopes of redress from a committee of that House, and that they are unable to afford him redress, for that Mr. Grenville's act only referred to the elections in small boroughs, the House must therefore entertain such a petition as that was, could only be considered as mere mockery.

Mr. *Bearcroft* said, that the petition did not appear to him to come under the act of parliament, which that House undoubtedly would, with scrupulousness, obey; but they were not bound so rigidly to obey that or any other act as unnecessarily to adopt a libel upon themselves, who were the only court capable of trying the merits of the petition, if it were fit that it should be tried: every court had its discretion as to certain points: suppose any man were to draw a bill of indictment to be presented to a grand jury, and instead of the mere subject matter, when such a bill were presented, the grand jury were to find a libel upon their foreman and several of the jury, stuffed into the middle of the bill of indictment, would not the grand jury reject such bill, and complain of it as a libel to the court before whom the indictments they found were to be tried, who would not only say they did right to reject it, but punish the party? So in the present case, the petition ought, in his mind, to be rejected.

The *Master of the Rolls* thought that if the petition were much more extravagant and abusive than it was, if it put in issue the complaint of an undue election and return, the House were bound to entertain it, and fix a day for its consideration. The whole question was, whether it did put the complaint of an undue election and return in issue? It certainly complained of an undue election and return; and therefore he would advise to refer so much of the petition to the committee, and no more.

Sir *William Young* wished the House to confine themselves to the point, whether the petition came so strictly within the purview of the act of parliament, that a day must be fixed for its consideration. He contended, that the petition did not come within the purview of the act of parliament, since the hearing a petition, as directed by the act, must be construed to the hearing a petition that was a petition, if he might so phrase it. In the present case, the petition had no petition in it; it alleged many extraneous matters, and complained of an undue election, but its prayer was not that the return might be set aside; it professed that the petitioner had no hopes that it would be set aside, but stated other expectations wholly foreign to that object. He recollected a precedent about the year 1748, when a petition from Maidstone to that House had been presented. That petition contained impertinent words and reflections on the House, which were severely taken up, and the parties punished.

Mr. *Morris* analysed the petition, to prove that it was not such as any of those which were properly denominated election petitions. It did not allege a false or a double return, corruption and bribery in the candidates, undue influence in the returning officer, nor any other of the usual allegations. It began with complaining that 17,000 householders had no right to vote, not that they had voted without having the right; nor that having the right, they had been prevented from exercising their franchise.

Mr. *Fox* agreed that the act of parliament in question was an act that ought to be strictly obeyed, as to the letter of it, by that House. Having heard the petition read three times, he was sure it did complain of an undue election and return, but, as a learned gentleman had well observed, it did not put the complaint to issue. The question therefore was, Did the law require that each petition should put the complaint it alleged in issue? Most certainly it did not. It expressly enacted and directed, that the House should refer all petitions complaining of an undue election and return to the investigation of a committee. The House was bound to obey that direction, and had no right, upon the plea of a petition containing irrelevant matter mixed with a complaint of an undue election, to make that a pretence for assuming to themselves a right to exercise a discretion which the law of the land had taken out of their hands. If they once broke through the act, they would by degrees render themselves obnoxious to the imputation, that they were desirous of getting back those factions, which were stated to have been so much abused before Mr. Grenville's act passed, an imputation which it

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was their duty most scrupulously to avoid. He should, therefore, vote for referring the petition to a committee. They had a right, however, to fix what day they chose for the consideration of the petition, and from the peculiarity of the case, and singular style of the petition, he should hope that the House would fix as early a day as possible.

Mr. *Pitt* observed, that he was inclined to entertain some doubts upon the subject, when he heard respectable persons differ in opinion. He agreed entirely with the right hon. gentleman, whose observations had great weight in them, and particularly the suggestion as to the propriety of naming an early day. He had read the concluding words of the petition carefully, and it was clear to him that the House had no option, but were compelled to refer it to a committee. He put the case, that a petitioner had shortly and nakedly inserted in his petition, that he complained of an undue election and return, and said nothing more. Would the House have rejected it? He believed not. As to the libellous matter, and the extraordinary and indecent outrage upon the House, it did not alter the complaint of an undue election and return, and every gentleman knew that their committees had the power, and frequently did make special reports in special cases. In their report, the committee most probably would take proper notice of the libel, and hold the libeller out to punishment; and if they should not, it would then be time enough for the House to do whatever should appear to them to be proper. But the petitioner had stated, that, in consequence of the proscription he had suffered for near twenty years, he was disabled from defraying those expenses necessary to carry on a trial of the merits of a petition before a committee. What was that, but his own supposition? He might be in an error as to the amount of that expense. A petitioner might be an ignorant man in an error; not that he meant to state the present petitioner as an ignorant man; he well knew that he was not; but it was possible for an ignorant petitioner, through an error of his judgment, to allege as a reason for thinking he could not prosecute the trial of the merits of his petition, what the House would know was not founded, and therefore by no means fit ground for the House to act upon, and disobey the positive letter of an act of parliament. He hoped, for that and other reasons, that there would be but one opinion, and that would be against swerving from the act. What the right hon. gentleman had said, which was of the greatest weight with him was, that they ought not to let in the opportunity of resuming by degrees those functions which the law of the land had clearly taken out of their hands. When the committee should make their report, they might state the libel; it would then be for them to assert the honour of the House, enforce the respect due to them, and punish the offence. He most perfectly agreed, that the day of consideration should be as early as possible, that the petitioner might be bound to enter a recognizance, and abide the consequence of his petition.

A motion was then made, "That this petition be taken into consideration on the 24th of May next." An amendment was proposed, by inserting "the 4th of February next;" and the same was agreed to.

Impeachment of Mr. Hastings.] Mr. *Burke*, adverting to the necessity of ascertaining the mode of proceeding on the impeachment of Mr. Hastings, now depending before the House of Lords, observed, that there could be no difference of opinion as to the magnitude of the object, since it might effect the judicature of the House of Lords, and the very existence of the constitution itself. He did not believe that any doubt on the subject of the rights and privileges of that House was harboured in the present case. He had looked back to such precedents of former impeachments as had been attended with circumstances at all similar to those which had attended the impeachment of Mr. Hastings, and the precedent he should select would be taken from the time when the privileges of that House were best understood, from a time when the most constitutional House of Commons that ever sat was in existence; in 1678, when that House, which in a former parliament that had been first prorogued and afterwards dissolved, had proceeded to inquire into the state of the impeachments of lords Arundel, Powys, Petrie, Bellasyse, and Danby. At that time the House of Commons made an order, that a committee be appointed to inspect the journals of the last parliament, to inquire into the state of the impeachments of the last parliament, and report it on the morrow. The only

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objection to that precedent was, the too great generality of it, which the nature of the case then called for, and which it was wise for that House of Commons to adopt, though it would be unwise for them to follow it implicitly at present. In 1678, the object of the House was two-fold; to ascertain the state of the prosecution of the inquiry into the Popish plot, and also of the prosecution of the impeachments of the noble lords whom he had mentioned. It was therefore wise in that House to make their resolution general; but he should only follow it in its principle as his object was a single one. His intended motion was as follows: "That this House will to-morrow se'nnight resolve itself into a committee of the whole House, to take into consideration the state in which the impeachment of Warren Hastings, esq., was left at the dissolution of the last parliament." When that committee should have made its report, it would then remain for the House to take such steps as might conduce most to their honour and to the substantial purposes of justice.

Mr. *Pitt* said, he was perfectly ready to concur with the right hon. gentleman in his motion, and was glad that he had adopted that mode of proceeding, which would neither prejudge nor commit any man, be his sentiments what they might. He hoped, therefore, that the vote of the House would be unanimous, as the question related merely to the mode of proceeding to be adopted in future.

Mr. *Bastard* said, that although he gave his vote for the present question, the House must not be surprised if on the ensuing Friday he should oppose the Speaker's leaving the chair, which, he conceived, would be as proper a way of bringing the discussion forward as any other.

Mr. *Pitt* said, that if there should be any difference of opinion as to the continuance of an impeachment, notwithstanding a dissolution of parliament, it must be a separate discussion, but he hoped the House would not be prevented from entering into the fullest discussion of the whole subject, and therefore trusted that no gentleman would resist the motion for the Speaker to leave the chair, without which he did not see how the general question could be gone into. For his part, his opinion was decided on the question; but gentlemen must remember there were two questions to come before them, first the right, and then the discretion; in other words, whether they might go on with the impeachment without beginning *de novo*, and next, if they might, whether they would or would not?

Mr. *Bastard* was not supposing that there was a doubt whether the Commons had a right to go on; but he did not see the necessity of going into a discussion of abstract questions and opinions; it was dangerous to disturb them; and he had ever understood, that in all well regulated governments, abstract questions were never suffered to be agitated. Nor did he see any use in doing so; if an abstract proposition got upon their journals, it ought not to be left there as a mere dead letter; if it was once voted, they must follow it up, which he should be for, provided any such abstract question were voted; but, in his opinion, the best question to take the subject up upon would be, whether that House should go on with the impeachment?

Mr. *Mitford* considered the motion as prejudging a question that remained to be discussed, unless a reference was had to the journals, and an extract read from them, by which the House would learn, parliamentarily, that an impeachment had been prosecuted by the last House of Commons; because, this House, being a new one, could not, as a House, be supposed to know what the last House did; however well he, as an individual, in common with those who had been members of the last House, knew that an impeachment had been prosecuted. Unless a reference was had to the journals, he could not agree to the motion.

Mr. *Burke* said, that the question of right was not an abstract proposition; they must found their particular practice on general principles, otherwise their practice would contradict their theory, and their theory contradict their practice. The hon. gentleman had said, that if they voted the question of right, it must be followed up by persisting with proper spirit; undoubtedly it must, and those who proposed the one, meant to pursue the other. Indeed, from every thing which had gone abroad, it was rendered ten times more necessary to discuss the question of right and to decide upon it, than ever. With regard to the necessity of having the journals referred to, in order that the House might be acquainted with the existence of the impeachment, for the sake of those who were new mem-

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bers, he would move to have the resolutions of last year read, and he moved accordingly.

Mr. *Fox*, although he did not object to the motion, did not see the necessity of reading the resolutions, because every member was supposed to have their journals, and every subject was bound to read the votes of the House of Commons, which, as far as they went, were as much law and as proverbially so as any other legal documents. If he had never been in parliament before, or never been in London, he was bound to have known what had passed in the last parliament.

Mr. *Mitford* said, that what he had heard had silenced his objection.

Mr. *Pitt* recommended the voting the resolution moved unanimously, without reading the extract from the journals, which appeared to him not only unnecessary, but might bring another question into discussion,

Mr. Burke consented; and the question was put and carried.

Debate in the Lords on the Convention with Spain.] Dec. 13. The order of the day being read for taking into consideration the Declaration and Counter-declaration, and the Convention with Spain,

The Duke of *Montrose* said:—I rise, my lords, to call your attention to the discussion of these important papers, and to move an address of thanks to his majesty thereon. The paternal goodness of his majesty, displayed in his expressions of anxiety for the continuance of the blessings of peace, call upon us for the warmest testimonies of grateful affection; and particularly as we find by these important papers, that his majesty evidently felt an equal anxiety for the honour of his Crown, and the essential interests of his people. The wisdom and dignity with which the negociation has been conducted, has not only preserved to us these blessings of peace, but has preserved to the nation, advantages highly important to its navigation and commerce.—The dispute between Great Britain and Spain, is naturally to be viewed in two lights, the insult on the flag of this country, and the injury done to its trade. His majesty, with that regard for the honour of the nation, which ought ever to characterize the sovereign of a free people, declared in his message, that the insult must be repaired, previous to any discussion of the injury; and we see that, accordingly, the declaration of the Catholic king does directly atone for that aggression. Thus, in the first great point of the dispute, the promise made to the British parliament has been honourably fulfilled.—The next consideration is the injury; and it is the duty of your lordships to see whether the convention does not amply repair the damage, and whether it does not also procure for England advantages of an important kind. Look, my lords, at the first and second articles of the convention, and you will see that restitution is to be made, and reparation to the parties injured. But this is not all. What has always been subject of litigation, is now finally adjusted, and Spain concedes the navigation of those seas. We are not only restored to Nootka, but, by an express stipulation, we may participate in a more northern settlement, if we should find at any time that a more nothern situation would be preferable for the carrying on of the trade. In like manner, what has more than any thing been a subject of jealousy to Spain, and what must be the source of wealth to Britain, the great question of the southern fishery is finally established, on such grounds as must prevent all future dispute. The line of limitation is marked, advantageous permission is given us to erect temporary buildings; but by a stipulation of the utmost importance, all violence, in cases of infraction, are prohibited; no officer must venture to seize a vessel which he may deem to have infringed the treaty, but he must content himself with writing home to his court. By this prudent provision the seeds of future war are prevented, and time is given for deliberate and friendly negociation. These, my lords, are advantages of a very important kind, and amply repay the amount of the sum which the armament has cost. And yet, out of doors, I have heard of murmurs that the expense was not only enormous, but unnecessarily incurred. If there are any in this House who are of that opinion, I hope they will come forward and state explicitly their reasons for so thinking.—The noble lord concluded with moving an address of thanks to his majesty, couched in the same terms as that passed in the Commons on the 14th.

The Earl of *Coventry*. My lords; I join in the praises so properly bestowed on ministers for the conduct of the negociation with the court of Spain. I think no noble lord can object to the cheerful pay-

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ment of the four millions that achievements so brilliant may have cost. Some persons object to the convention, that the limits between us and Spain are not sufficiently defined, so as to prevent future ruptures. I am of opinion, that we have defined a point which will, more than all the parchments of the world, tend to preserve England from future insult. We have equipped seventy ships of the line in five months. Treaties may be broken, conventions may be infringed; but we have shown, through the zeal and activity of government, that we are too powerful to be attacked again by Spain. This is my motive for joining in the motion.

Lord *Rawdon*. I rise, my lords, to give a reluctant negative to the motion. It gives me considerable pain, that ministers have chosen to interweave matter in the address, which indirectly combines with gratitude to his majesty, approbation of a measure upon which your lordships cannot form a deliberate judgment. They have thought fit thus to couple the great question of the convention with the motion for the address, that they may seize on the loyalty of the House, and bend it to their own use. If I knew any way of retaining so much of the motion, as simply expressed the thanks of the House for his majesty's goodness, I should be happy to preserve the unanimity which was manifested on the return to his speech; but ministers have so adroitly incorporated the approbation of their measures, that I am reduced to the necessity of moving the previous question, that I may be able to move an address of thanks unconnected with other matter.—It is, my lords, so necessary to our honour, and to the honour of ministers also, that we should not make a premature judgment on the important point before us, that I am astonished they should thus call for blind admiration from this House. We know nothing of the true history of the negociation, on the conduct and issue of which they call for our thanks. They withhold from us the means of judgment, and yet claim our praise. This undignified course on their parts ought to make us more than usually strict in the discharge of our duty. Confidence, that generous quality which led us, in our deliberative capacity last session, to trust them implicitly with the conduct of the negociation, would change its character, and become something worse than weakness, if, now that the negociation is ended, we were to continue to give it. In my professional capacity I would with promptitude go forth at the command of my sovereign, and discharge the duty confided in me by my commander, without inquiry and without distrust; but the war being over, I should, in my place in this House, think myself bound to call on ministers to prove the justice of the war in which they had involved their country. Last year ministers thought proper to refuse us all information. Even the rescript was improper to be given, although the court of Spain could not possibly acquire, by such disclosure, any information which they did not previously possess. But is it now to be denied? And are we to overlook our duty and pass a vote of approbation, without knowing whether ministers may not be actually criminal in what they have done? Suppose, my lords, the Commons should find ground for the impeachment of ministers, for their conduct, in this very negociation. Should we not go into Westminster-hall under awkward circumstances, with the prejudgment of this address on our Journals? Conduct, so mysterious, naturally engenders suspicion, that there is something in this business which they are fearful to disclose. The noble duke says, that the points to be considered are, 1. Whether the insult given to the national honour be atoned for amply? and, 2. Whether the advantages gained are equal to the injury and the expense? I dissent totally from this statement. The first and obvious question is, was there an insult given to the national honour? He passes over this essential first inquiry, for the best of all reasons, because he sees ministers have denied the House the means of ascertaining the fact. But it must be known, and from the true circumstances of that aggression we must draw the first conclusion, either that ministers hastily committed their country, or that they with dignity resented an affront.—No noble lord can be more decided than myself in the opinion that national honour is a substantial ground for war. The honour of a nation is as sacred as the honour of a gentleman; for, wounded with impunity, the consequences are the same. The nation that submits to be insulted, comes first to be despised, and next to be oppressed. National honour, therefore, is, of all causes of war, the most sound and rational. But give me leave to say, that

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insult is of a quality which requires not time and calculation to comprehend. It is felt the moment that it is committed. It is not like a damage to be weighed and balanced—pure spirit and proper feeling act the moment they are assailed. How did ministers treat this pretended insult? We know from the published memorials of M. de Florida Blanca, and M. de Vauguyon (which I quote, because no minister, however they may withhold papers from the House, will invalidate their testimony), that information was officially given of this insult on the 10th of February. What did they do on the occasion? They never came forward to avenge the insult and maintain the honour of England till the 5th of May. What can the House collect from this, but that either the insult is a mere pretext taken up to answer another purpose which they did not think it safe to avow, or that they dallied with the honour of their country?

If I were to indulge a conjecture, I should say, that the first of these was the true cause of all this violent bustle. Looking back to certain rumours, and particularly to the warm encomiums on the gallantry and heroism of the king of Sweden, which the ministerial papers were so fully charged with, I should infer that the spring was pregnant with a design to assist the northern warrior; but that, sensible the nation would not relish such a design, and that the noble earl who commanded the fleet, would not have been perfectly pleased to have gone to the Baltic, they thought a little bullying of the Spaniards, a seasonable thing, both for concealment and popularity. That they afterwards changed their system, and abandoned the Swedish monarch to his fate, only proves that they conducted their system as weakly, as they undertook it unwisely. But I again aver, that it is indispensable to our faithful discharge of our duty, to demand the means of ascertaining the true nature and extent of the insult, by which we may go properly into the examination of the manner in which they conducted themselves in this insult, granting that it was committed. I certainly shall not think the expense incurred too great, if it be fairly established that any expense was necessary. I hold it as an uncontrovertible axiom, that nothing but positive necessity could justify ministers in putting us to the hazard of a war. Our expense for the years 1787, 1788, and 1789, has exceeded our increase by 700,000*l.* a year, instead of our having, as the minister promised us, a surplus of a million. A growing debt demanded, therefore, that we should, by every possible means, preserve the blessings of peace.—The noble lord proceeded to analyse the conduct of ministers in the several stages of the negociation. If, he said, the insult was given, they compromised the honour of the nation by delay; but there was a most blameable spirit of inflammation visible in their whole department. Instead of cultivating that liberal system which the enlightened philosophy of the age made it so practicable for them to cherish and promote, by all their vehicles of publication, and by the whole tenor of their conduct, they roused in the nation an unwise and ignoble rancour against Spain, which that generous and high-minded nation never deserved, and which it was scandalous to cherish, even if there were provocation. He paid high compliments to the navy for the ardour and alacrity they had displayed, and to the duke of Clarence, for the happy effect which high discipline, prompt obedience, and ardent gallantry, manifested by a personage of his rank had had on the service. He concluded with moving the previous question.

Lord *Sydney*. I confess my astonishment at the observations that have fallen from the noble lord. I may be supposed to be partial to ministers from having left the cabinet so lately; and I fairly acknowledge my partiality; but did I ever expect to hear them charged with being anxious to involve their country in war, or to inflame the minds of their fellow citizens with rancour against other nations? Above all, did I ever expect to hear, that these charges against them were to be drawn from the ministerial prints, and from conversations out of doors? Ministers must be strangely changed in their dispositions, since I had the honour to sit among them, if they are now disposed to involve their country in a war, or to incumber it with unnecessary expenses. I beg leave to bear my humble testimony to the merit of their labours in this negociation.

Lord *Porchester*. I cannot conceal from your lordships, that I expected rather to meet this matter in the shape of an impeachment rather than in that of an address of thanks. A conduct so absurd and pernicious, so destitute of all policy, the history of nations cannot ex-

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hibit. Bullying so unprovoked, evaporating at length in a convention so unmeaning; confidence given so liberally, and so ill rewarded; never was paralleled. It is, in fact, a bubble, successfully blown up, at a critical conjuncture, to enable ministers, under the fictitious name of an armament, to influence a general election in such a way as to bind the majority in the service of ministers.—The noble lord said, that when he read the articles of the convention, he did not understand them. Did not the event, he asked, confirm the very general observation without doors, that we had a ministry who had neither the courage to make war, nor the skill to make peace?—He concluded by expressing his perfect approbation of the previous question.

The marquis of *Lansdowne* said, that he did not trouble the House, when the question respecting Nootka Sound came before it in the last session; considering the executive power as entitled, in the first instance, to conduct the negociations with Spain. The constitution gave them that power: but it belonged to the legislative body to pass a judgment on what was done. A judgment was even called for; but none could weigh with the public which was not founded on information. Papers had been refused, and ministers seemed equally disposed to refuse all verbal information. To expect a vote of approbation under such circumstances, was clearly a violation of constitutional principles; and reduced the House, therefore, to the necessity of taking up the question upon the footing of notoriety and general information. A noble viscount had just given assurances, that the general sentiments of ministers were pacific, when he was lately a member of it. Ministers certainly set out upon the principles of the peace in 1782-3, and had taken credit with the public upon that foundation. It was neither just, nor was it his inclination, to try their proceedings by catching at general words, or even assurances; but by comparing their general conduct with the general system of the late peace, upon which they had thus solicited and obtained the public confidence. This could only be done by reviewing the great features of their administration on the subject of foreign politics; and as the points were soon summed up, the public would easily judge for themselves. With respect to France, the object of the late peace had been, to extinguish all mistaken ideas of rivalship, which had hitherto prevailed; to leave nothing, if possible, undefined; nothing of consequence, mixed; nothing to commissioners to settle; and no room for foreign powers to interfere. The result was, that never was there a period when animosity so soon subsided, when so few subjects of discussion, much less of dispute, had occurred with France as subsequent to 1782.—With respect to Spain, the design had been to suffer the chief of what was conceded at the peace, to remain in the hands of the weakest power. He had no hesitation to say, that after the independence of the North American colonies, North American possessions no longer stood in the same position with regard to Europe; nor from that time could any European settlements in those parts be deemed of a permanent tenure. Every thing, however, was reserved which the negociation admitted, for two purposes; first, to collect the public opinion, which ought to be consulted where it could be done with safety in all great occurrences, especially commercial; and secondly, to assist the terms of our treaty of commerce with Spain.—With respect to Holland, the object was to remove the reproach which hung upon us from De Witt's treaty, and to stipulate for freedom and extension of trade, by the article respecting the spice islands; and, by the third article of the treaty with them, to make them sensible of the consequence of treating through a third power.—As to the rest of Europe, the state of it was just such as could have been wished; for we were left without a single engagement upon our hands, and free to adopt any or none, as might be found eligible.

It remained to be inquired how far the conduct of ministers since 1783, had been conformable or not to these principles, and this situation in regard to their general system in foreign politics, and their particular proceedings with Spain.—In the early affairs of Holland, the memorials they presented had been said in that House to have been milk and water, and in his opinion they might have been more pointed; but, if there was any error in this, it was on the right side, and corresponded at least with the basis of their professions.—The next concern was the Germanic league entered into to check the growth of the emperor's power, which was an instance of the highest

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diplomatic wisdom. Prussia had every merit in projecting it, and it was highly becoming England to have been among the first to support it; but ministers, apprehensive of a clamour respecting Hanover, confined themselves (in the language of one of their body) to "a vow upon paper." Hanover and England ought certainly to be kept distinct, yet, in this case they had agreeing interests. The whole of Europe was indeed comprehended in the question; for Germany under a single head, not to mention the emperor's other possessions, menaced the safety of Europe; and the league operated accordingly. The conduct of ministers upon this occasion, if a mistaken one, was on the right side; the paramount interest of this country being peace.

Next came the commercial treaty with France; which with the language accompanying it, was so perfectly conformable to the principles professed, as to leave nothing to be said, except as to the neutral code, the evils of which might be presumed to have been sufficiently felt by ministers in their commercial negociations with Holland; and must have been more so, had our dispute with Spain ended hostilely.—The next proceeding of ministers, calling for notice, was the memorable convention with Spain in 1786, respecting the Mosquito shore; a treaty which was *unipartite*. It had no precedent in history, except in the session of Bucovina to the late emperor by the Turks, and was not to be explained upon any system of civilized or European politics. In all this however there was nothing to offend against pacific sentiments. But the king of Prussia dies, and a total alteration of English politics ensues. From this era the pacific system was rejected; the ancient language was revived. France was again held out as our natural enemy; and *delenda est Carthago*. Still more; England was thought equal to dictate to the whole world. Our ministers and messengers overspread all Furope. Every court was to feel terror at the name of Britain; our resources were inexhaustible; and our power not to be resisted—especially without the balance of France. Holland was obliged by force, not upon principle, to return to our alliance; France was dictated to; the Turks were excited to murder the Russians, while proclamations were issued at home for restraining vice and immoality; the Swedes were to complete the humiliation of this devoted power; Denmark was ordered not to intermeddle; more employment for the emperor was found in the Belgic provinces, in case the Turks had proved insufficient for the purpose; and all this was finally made to terminate in Nootka Sound! Some young gentlemen at China attached to geography and a little commercial advantage, fit out a vessel called the Sea Otter, for the North-West coast of America. Some Bengal adventurers fit out two other ships, with fine names, under Portuguese papers and colours. Some speculative merchants, men of letters, perhaps, fit out two other ships, and the whole sails under the command of a young gentleman of the name of Mears; who is instructed and instructs his followers, in terms becoming the form and pomp of office, to violate a system regarding Spanish America, which it has been the policy of Europe, and in particular of this country, to adhere to for ages. Russian, English, and Spanish vessels were directed to be treated with like civility in the first instance; but in case of an attempt to turn the adventurers out of their way, force was to be repelled by force, the parties to be seized, and their ships brought in to be condemned as prizes, and their crews as pirates. In planning a factory, it was declared that they looked to a solid establishment, and not one to be abandoned at pleasure; and they authorized the fixing it in the most convenient station; only placing their colony in peace and security, fully protected from the fear of the smallest sinister accident.—It was said, that this had appeared by papers laid by ministers before the House of Commons; but this was impossible. Occurrences, arising out of this enterprise of a few individuals, begun without any due warrant for it, form the ostensible ground of a dissention with Spain. We arm in a manner regardless of expense, and summon Spain to submit in a manner alike unprecedented and insulting. The convention then follows, which parliament, with pretty much the same peremptoriness, is called upon to approve.

The facts thus stated, continued the marquis, admit the following observations; first, as to the late change made in the general system of our politics since 1782; and, secondly, as to the departure from the particular system observed for ages by this country respecting Spain and Spanish America. With regard to the first

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object, namely the change in our general system, that which had been substituted appears to have wanted both vigour and consistency. The situation of France had produced a crisis not unworthy the deliberation either of Greece or Rome. One plan, evidently offering for this country, was to have remained quiet and laid a foundation of gratitude and respect with France and Spain, and of reputation with Europe at large by assuming a tone of dignity and moderation. On the other side were to be urged old practice, ancient prejudices, revenge, and disabling possible enemies; motives justified by history, and even by civil law writers. He undoubtedly was for the first system: but, seeing administration had not adopted it, he had been one of those who were duped by the language of the ministerial prints, and imagined that the affairs of the Baltic had had a large share in our armament. As every thing was left free by the peace upon a pacific system, by the same rule every thing was left open upon one that was warlike. We had alliances before us to chose; we were the only power in Europe looked up to; and we had only to have imitated the Prussian plan of the Germanic league to have imposed whatever conditions we inclined to, and to have been restrained by nothing but our own regard to justice and reputation. Sweden met us more than half way; Denmark had no option; France Russia, and Austria were occupied; and we might have obtained what terms we pleased from France and Spain, or have struck a blow which must have put it out of the power of either to have molested us for an immense period to come. Instead of this, what is the state of Europe? We have mortally wounded the pride of Spain, who will always think that we have taken an unfair advantage; we have shaken our infant confidence with France; we have alienated both the sovereign and the country of Russia; Sweden has been betrayed; Denmark insulted; Portugal driven into a closer connexion with Spain by our language, while both our complaints and our merchants appear notwithstanding, dropped and forgotten; and Prussia, our only efficient ally, will not say she is obliged to us. Europe, which, in 1782, was open to us throughout on pacific principles, and the balance at our command on warlike principles, has the scale turned against us, and stands on principles of alienation and personal hostility. Such has been the conduct used respecting Europe at large.

No relation of this country has undergone more complete discussion than our connexion with Spain, and particularly respecting Spanish America. A friendship with Spain was the object of our policy so far back as the reign of Henry 8th, and, upon the foundation of the treaty which then took place between the respective sovereigns, we have never surrendered our right of trading to the Spanish West Indies, in the same manner that we have insisted with Portugal upon a right of trading to the Brazils; nor have we ever yielded up the right to either, in any negociation, till the present convention. The navigation in the Spanish American seas was expressly stipulated by the 15th article of the treaty of 1670; which was recognised by the Spanish minister in 1749, and by their ambassador here, Mr. Wall; and of late years we have notoriously exercised the right itself both in voyages of discovery and for fishery. Sir Benjamin Keene, one of the ablest foreign ministers this country ever had, used to say, that, if the Spaniards vexed us in the first instance, we had means enough to vex them without infringing upon treaties, and the first step he would recommend would be to send out ships of discovery to the South Seas. Thus stands the question, long established as to the right, which is plainly, therefore, not a point obtained for us by the present convention: but let us now see with what cautious wisdom this avowed right has uniformly been managed.

A succession of able ministers at the court of Spain in Charles 2nd's reign, sir Richard Fanshawe, lord Sandwich, and sir William Godolphin, all united in advising forbearance as to the use of it. Sir William Godolphin did this in most pointed terms, after much conversation with the wisest of our London merchants; whose unanimous opinion had long been, that it was better to trade with Spanish America, through Old Spain, than to have a direct intercourse with that part of the world ourselves. He was so much in earnest upon the subject, that he wrote to the king to prevent his being misled by interested advisers; assuring him that there was no way more certain of fundamentally alienating the Spaniards, and throwing our rivals in navigation into stricter correspondence and more frequent intercourse with them, than by interfering in

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South America. It was as clear then as it is now, that whatever we obtained for ourselves was not obtained for ourselves singly, but that other nations must participate in it. Perhaps there was wisdom, in more respects than one, in suffering the great stake, contained in the Spanish American possessions, to lie to a certain degree dormant and unimproved in the hands of Spain. In any event, as long as Spain held the revenue and commerce arising from her colonies to be preferable to her manufactures, it was our interest to be content with commercial advantages in Europe as a compensation for suspending our claims respecting the South Seas, since our rights in that quarter might always be revived when opportunity called for it. This policy was so wise, that it was considered by subsequent ministers as fundamental, and not to be departed from. Accordingly it was followed all through the reigns of king William and queen Anne, and it governed the negociations, such as they were, at Utrecht; where lord Bolingbroke considered it as the interest of England to uphold, as high as possible, the claims of Spain, with the idea of securing a preference to ourselves over the other nations in Europe. Sir Robert Walpole's opinion is notorious, for he fell a sacrifice to it. The duke of Bedford, a warm minister, who had projects of discovery, was so cautious, that he consulted the Spanish minister here, as well as sent to seek the opinion of the court of Madrid; and found our right fairly acknowledged, but the exercise of it deprecated as likely to be productive of war. He was not backward in insisting upon our large claims in those parts, and dwelt upon the good to arise to science and to the world, and even to Spain, from proceeding in them; but, with great wisdom, he stopped short, saying, that amity with Spain was important enough to supersede every other consideration, where the rights of the King's subjects were not immediately and intimately concerned. Next came lord Chatham; and, to his own intimate knowledge, being then secretary of state, and without alleging his own opinion or conduct, as authority, this principle was what governed lord Chatham in the early part of the negociation respecting Falkland's islands; and it finally appeared to influence lord North's conduct at the conclusion of that negociation.

As to the particular terms of the convention just concluded, it stipulated, with respect to Nootka Sound, what was either pernicious or trifling. It appeared a madness to think of colonies after what had passed in North America; but, if there were even two opinions upon this subject, there could be but one about our power of affording it: we could not do it. As to the fishery, it was defined to our detriment, ten leagues being a new stipulation in the Spanish American seas. Such a boundary deprived us of all fishery of consequence, excepting that of whales, and even of that in a considerable degree. Grotius, and all the civil law writers, joined to what had passed with Spain upon the subject, rendered any concession on this head useless; particularly as we had been in the habit of exercising the right of fishery for fourteen years back, under the avowed sanction of our acts of parliament.—Another observation was, that we endangered our commercial treaty so long depending with Spain. We put to hazard our Spanish trade in woollens, hardware, cottons, and even fish itself; not whales indeed, but something more material, namely, the cod of our fisheries of Newfoundland. And the proceeding was the more unfortunate, as our trade in Spain laboured under many hardships, particularly the Alcavala duty, which was a per-centage upon every transfer of our articles sold in Spain, so as sometimes to amount to two-fifths of the prime cost.—But whatever increase of fishery or trade we had obtained, if it were even true that it was gained by means of the convention, the gain is not exclusive, but may be partaken in by other nations. The Americans had already been as active in these seas, as they had been accustomed to be in their own; and, by the accounts of Mr. Meares, had even some claim of discovery in their favour, by proving Nootka Sound to be part of a large island. Russia had perhaps a still closer interest in the case. It was farther to be noticed, that, if trade and fishery should increase, under the convention, in these distant seas, the experience of Newfoundland made it clear that a fleet must be provided to protect both of them; which yet, in case of war, would, together with the objects designed to be protected by it, be likely to fall into the hands of a superior force, always on the spot; and thus lose to us the very naval strength we designed to create by them. In short, every thing proved the

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absurdity of having a nursery for seamen at so great a distance.

The experience of Newfoundland had served to convince us of another thing admitted under the present convention, namely, the mischief of concurrent rights. There was not a naval officer, who could not bear witness to the successive disputes which had occurred at Newfoundland, till distinct lines were drawn, and all interference prohibited by the peace of 1782.—It was singular to find the convention stipulating, on our side, that the most effectual measures should be taken to prevent our navigation and fishery being made a pretext for illicit trade with the Spanish colonists, when it was notorious, that we could not prevent contraband trade upon our own coasts at home, close to the very seat of our government. How, then, was it possible to prevent quarrels upon this subject, arising from the guarda costas of Spain?

The convention, in short, seemed big with evils, and this was the more to be lamented, as the Spanish possessions in the parts in question were probably not worth many years purchase to Spain. Before our engaging, therefore, in the discussion, it would have been wise had the matter been properly investigated, and the public opinion duly taken, as well as the value of the whole properly weighed; especially taking into consideration the consequences of war in regard to taxes, which no man could tell, let our success be what it might.—The noble marquis concluded with stating the following reasons for calling on every reflecting man to vote on the present occasion, however disposed he might be on other points. First, to manifest to Spain, that the public of this country had not changed its opinion advisedly, whatever might be the conduct of its ministers, and disdained to take any ungenerous advantages. Secondly, to prove the same things to Europe at large; and that we are as forward as any nation whatever to listen to the voice of philanthropy and philosophy, liberality and peace, which was so happily for mankind, gaining ground in every civilized nation. Lastly, to assist in preventing future ministers from falling into difficulties of a similar magnitude with the present, by the acts of unauthorized individuals, on the one hand, in times less favourable to the event of them; or from being forced into them, on the other, by a senseless clamour, as happened to that great minister of his day, sir Robert Walpole, though living in close confidence with cardinal Fleury; and whose fate therefore it would be difficult for ministers, less able and less respected, in such cases to avoid.

Lord *Grenville* made his maiden speech in this House. He contended, that if any thing more than another made the constitution of England desirable, it was the distinct authority which it gave to government to negociate, unshackled by the legislature, pending the business, and responsible only on its conclusion. No one paper, his lordship said, was wanting, in addition to those already produced, to elucidate the business, on which the House had to determine: for here was the message of his majesty containing the injury, and fairly stating what would be the reparation that should satisfy. Here, too, was the convention, showing that the reparation was complete, as it was originally proposed; and unless it could be shown that the satisfaction did not come up to the proposal, or that there was ground to suspect mistatement; unless they thought the money, said to be spent, had been misapplied; or that some other gross malversation had occurred; he saw no solid ground for calling upon ministers to disclose what never could be done without indelicacy, and perhaps danger. His lordship then entered at length into the articles of the convention, to show the benefits we had obtained, both to our fishery and fur trade; and in particular he answered the charge which imputed to ministers a change of the pacific system in which they set out.

Viscount *Stormont* supported the motion for the previous question. He said, that we had conceded a right which we possessed by the law of nations; inasmuch as that law gave us leave to settle where no other power had pre-occupancy; and by this agreement we deprived ourselves of that right. In like manner, the navigation of the South Seas was always claimed, on the principle of its being an open sea; and he was well informed that the most valuable part of the fishery was at the distance of five leagues from shore, whereas we were debarred by the convention from coming within ten sea leagues.

The House divided on the previous question: Contents, 29; Proxy, 1—30. Not-Contents, 65; Proxies, 8—73; Majority, 43.

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The address was then carried in the affirmative.

Debate on Mr. Grey's Motion for Papers relative to the Convention with Spain.] Dec. 13. Mr. *Grey* rose to make his promised motion. No man, he said, applauded more than he did the wisdom of the legislature, in giving to the executive power the separate right of negociating all treaties of alliance and of war and peace: no man felt the principle more strongly, or acknowledged its value more gratefully: it was to that principle, maintained and supported by the House, that we owed our honour and the rank we held among the nations of Europe. But if this principle was so sacred, how were we to secure it inviolate? Where were we to look for the preservation of this power from abuse but to parliament? If it was for the interest of the country and for the honour of the Crown, that the power of negociation should be so lodged and so confined, it was equally necessary that parliament should take proper means to guard against the abuse of it, by exercising its undoubted right and most valuable privilege, the right of inquiry. And it was, he observed, a first principle in that House to inquire, when inquiry was safe and might be adopted without the smallest degree of danger. The motion he should have the honour to conclude with that night, would be for an humble address to his majesty, to order certain papers to be laid before the House. He flattered himself it would be thought proper so to address his majesty, as it was highly necessary that they should inquire into the negociation before they proceeded to form a judgment on the convention. It was upon that principle, and with a view to enable parliament to judge from the past, what they had to expect from administration in future, that he had moved for papers in the last parliament. A vote of approbation would be premature, unless papers were obtained and laid upon the table. Without them it would be impossible to know whether the late disputes had been owing to the restless ambition and unjust claims of Spain, or to the rashness, presumption, or ignorance of his majesty's ministers. Without the necessary papers it was difficult to decide whether we might not have gained all the boasted advantages, which its advocates imputed to the convention, at a much less expense than had been incurred. He was at a loss to tell whence an opposition to his motion could arise. But it had been said, with a marked confidence, that the majority of that House would go with a person high in authority in rejecting the motion which he should have the honour to offer. If the fact turned out to be so, he could only say, he should be content with having done his duty; and was conscious that no one reasonable objection could be offered against the motion, and that the journals sufficiently testified that such motions were scarcely ever refused In the case of Falkland's island, and even in the convention of 1739, every paper that was demanded was laid before the House, and a body of evidence produced before they were called upon to pass a judgment upon either treaty. The affair of Falkland's Island was, he said, the most analagous to the convention of any upon the journals. They ought, in the present case, not only to see the treaty itself, but every part of the negociation, as every measure takes its colour from the means used to effect it. In the exalted state of the country no man rejoiced more than he did, and he preferred peace to any thing short of the honour of the nation: but our debt had been aggravated by the addition of three millions. Allowing this convention to be as good as he thought it bad (and he had no scruple to say, he thought it the worst that could have been made), however great our country's situation, it would be inconsistent with the gravity of that House to vote applause without inquiry. If it should be found that the measure had been protracted through the ignorance, presumption, or rashness of ministers, were they to applaud those whom they ought to censure, perhaps to impeach? He took occasion to allude to lord Grenville's letter to the city; that noble lord, for his long and laborious services in the chair of that House, had, he supposed, been promoted to the peerage. Indeed, he observed, that all the chancellor of the exchequer's peers were raised for their eminent and distinguished services; as it was well known the right hon. gentleman, in the distribution of his favours, always acted on the most disinterested motives! Lord Grenville had, in his letter, stated the pacific inclinations of Spain in July last, and yet, to the surprise of every body, the preparations were continued with increased alacrity and extent. After pursuing this strain of irony

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to some length, Mr. Grey said, there was a call for information, before they came to a vote of approbation. To some it might appear that the principle of the King's message had been receded from, and that what was at first stated to be an absolute right, had been negociated away to a conditional right. Papers might prove that there was wisdom in the moderation that had succeeded to menaces; but let the convention be ever so good, the House ought to know that it was so, before they came to a vote upon it. To some, however, it might appear a bad convention: whether good or bad, still papers were necessary, because approbation without inquiry lost half its weight. If the right hon. gentleman had acted like a person who had done his duty, and had no parts of the business to conceal, he would cheerfully meet the motion, and be obliged to him for having made it. Mr. Grey said, it was not his intention to revive any of the right hon. gentleman's language on the budget, and his subsequent hints, that we were likely to enjoy a continuance of peace. When his majesty had called upon that House last session to assist him in supporting the honour of the country, there was not a dissenting voice; there was no hesitation; they gave a vote of credit to the minister for a million, for which he made a bad return then, if he refused to give them the papers they asked for. Had not the whole argument last session rested on the danger of disclosing state secrets pending a negociation? That danger no longer existed; the negociation was at an end, and the treaty brought to a termination. The functions of the House of Commons were, Mr. Grey said, obviously changed; they were no longer to watch and to inquire: they might give a vote of credit for every thing to the minister, who might to such a parliament say, "we have saved a war, and have expended three millions." That was no matter, they were to see, hear, and say nothing; they were to make no retrospect, and had only to look to the halcyon days of peace. This language, as long as he had breath, he declared, he would oppose. Ministers were bound to show whether we had incurred so large an expense through the ambition of Spain, or through their own ignorance and neglect. Those who would vote with them, without explanation or inquiry, he gave them joy. He said, ministers could have no motive but fear to prevent the negociation being made public. The chancellor of the exchequer stood pledged in the last parliament to lay the papers before the House on the close of the negociation; but he supposed, that instead of acting that open part, he would take refuge in his old fortress of confidence, and might think it prudent to teach the new parliament the blind confidence of the old; for if this was not a case worthy of inquiry, no case would ever be presented more strongly demanding one. If any member could state one possible danger and public inconvenience that would result from his motion, he would consent to withdraw it. The argument of all the friends of the right hon. gentleman last session, went to prove, that if negociations were developed, pending their being in treaty, there would danger arise; but that when they were over, then papers might safely be called for. What was then become of the right hon. gentleman's courage and prudence? Did his courage consist in bold and boasting assertions, when he was sure those assertions could not be put to the test, and his prudence in concealing all that he had done, when the danger of discovery was at an end? His conduct warranted such a construction. Mr. Grey concluded with desiring the entries in the journals of the motions agreed to on the 25th of January, 1771, for papers relative to Falkland's island might be read; and the same being read, he next moved,

1. "That there be laid before this House, copies of all claims and representations made by the court of Spain relative to any settlement that has been made on the north western coast of America, and to the fisheries carried on by British subjects in the South seas, together with the answers that have been given to such claims and representations, with the respective dates thereof. 2 "That there be laid before this House, copies of all demands and requisitions made by his majesty's ministers for adequate satisfaction from the court of Spain for the act of violence committed in the port of Nootka by an officer commanding two Spanish ships of war; and for restitution of the vessels belonging to his majesty's subjects, and navigated under the British flag, which were captured in the said port, together with the answers to the said requisitions; and of all representations made to the court of Spain by any of his majesty's ministers since the receipt

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of the first intelligence of the armaments carrying on in the ports of Spain; and of all letters and instructions upon the said matters sent to any of his majesty's ministers at the court of Spain, and of all letters relative thereto, received from the said ministers by any of his majesty's principal secretaries of state, or other ministers at home."

The first resolution being put,

Mr. *Pelham* seconded the motion, and contended, that every member ought to be in possession of the papers before he could give a conscientious vote for the convention. If the papers were refused, the House would, in his opinion, be abridged of the first of its most important privileges, namely, that of inquiry; and if they gave up the right of trying the merits of foreign negociations, all power to prevent evil would be done away, and the House would sink into mere auditors of accounts. He thought the question a great constitutional question, and said, by excluding from that House the right of foreign inquiry, they would involve the country in endless wars and disputes. He intreated gentlemen not to give that blind and implicit confidence to the minister, which some in the late parliament were not ashamed to contend for as parliamentary. It had been the opinion of all Europe, that our armaments had been prepared not merely in regard to any thing that related to the difference about Nootka; and that opinion was strengthened by the present increase of our naval establishments, by ten sail of the line over the usual peace establishment. He knew that motions for papers were considered the caprice of individuals, or the mere efforts of curiosity; and that it was deemed an act of spirit in ministers to refuse them; but that was a false and idle notion. He mentioned, that the publicity of affairs in a neighbouring country, which formerly kept her secrets more close than any other in Europe, and the publication of a certain correspondence (the duc de Vauguyon's) had manifested the extent of our armament, and raised the jealousy of all Europe. The Spanish court thought we had some ulterior object beyond the difference about Nootka; it was, therefore, more necessary than ever to inquire.

Mr. *Wilberforce* said, he did not doubt of being able to convince gentlemen, that the true dignity of the House would be best maintained by resisting effectually the present, and every similar motion made under the like circumstances. He contended, that parliamentary inquiry ought not to be set on foot without strong grounds of suspicion, or manifest blame; and that an inquiry ought to be considered of too much importance, and of too much gravity, to be applied for on grounds of simple curiosity. He asked gentlemen whether they must not be convinced, that should the motion be agreed to, the quantity of papers that would be necessarily produced, from a long negociation, might afford foundation for some censure. He would be the last man in the House to give up the right of inquiry; but he would reserve it for important occasions, and not agree to its exercise on every petty summons. He contended, that the negociation relative to Falkland's island, was materially different with the late negociation with Spain; in the affair of Falkland's island, there was a reservation of right; in the present, no such reservation was maintained. Party at that time ran high; he well remembered that impeachments were threatened, and blood, blocks, and gibbets were mentioned. Ministers had, in the late negociation, avoided the evils of war; that they had made an amicable settlement between the two countries, and opened a way for advantageous treaties. He and his constituents felt thankful to the minister for his conduct; and the present House of Commons would act honourably to themselves, and advantageously to their country, should they adopt the conduct of the former parliament, in giving to administration that confidence they highly merited from their past conduct. All the power and authority of that House, dwelt in the opinion of the people, and that would soon be lost, if, upon such occasions, they granted the exercise of the right of inquiry. The approbation of the convention, given by the first city in the kingdom was, in his opinion, much more to be attended to, than the idle gratification of a few individuals. He contended, that in the message, the declaration and counter-declaration, and the convention, the House was in possession of papers sufficient to form a judgment. He asserted, that it would be found, upon comparing the language of Spain, with the concessions in the convention, that we had gained every thing we had a right to expect, and more than was held out in the message.

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Where, he asked, was the suspicion to be held against these broad facts? Who would state any good ground for suspicion? He hoped the approbation of the House would no longer be withheld from administration: he called for that approbation, and for due confidence, from a new parliament, with the greater readiness, because they were just come from their constituents, whose opinion they might wish to maintain, but whose opinion they would not maintain by a wanton and unnecessary exercise of the privileges of the House.

Mr. *Windham* said, his hon. friend's speech involved in it a question of infinite importance, namely, whether a great branch of their privileges was to be struck off at one blow, or not? His hon. friend had said, that the House was not to enter into any inquiry into the conduct of ministers respecting the most important negociation, unless it is evident on the face of it, that ministers had been to blame. That, Mr. Windham said, he denied: it was most unconstitutional doctrine in concerns that involved in them nearly four millions of public money. Should they not examine and inquire into the wisdom of the expenditure? It was the duty of parliament to inquire, unless salutary reasons could be assigned for not producing the papers requisite to elucidate the subject. The hon. gentleman had said, that peace was a good thing. Undoubtedly it was; but had his hon. friend never heard of a bad peace? It was not true, that peace was always better than war. If any peace was good, why did we expend so much in preparing for war, when peace could have been obtained on some terms or other, sooner, perhaps, than had been the case, and at a less expense? If peace was a blessing, and a blessing most desirable to this country, let them examine why peace had been suffered to be so long in danger. There could occur no occasion for papers that was more important, or more necessary to be taken advantage of. As to what the hon. gentleman had said of the last parliament, he would appeal to all who had sat in that House, whether the general turns of argument had not been, that pending a negociation, to grant papers might be dangerous; but that when the negociation should be concluded the objection would be done away? It would be a humiliating circumstance for the House to be called on to approve the convention without an inquiry having previously taken place. He thought the refusal of the papers afforded a strong ground of suspicion, that the conduct of ministers would not bear inquiry.

Mr. *Wilberforce* said, he did not state that papers were never to be produced, but when there was upon the face of them suspicion of blame; but that it ill became the dignity or gravity of that House to call for papers respecting a negociation, unless on the face of it, there were some strong grounds of suspicion.

Sir *William Young* was satisfied the privilege of inquiry ought not to be wantonly exercised. It was not a question whether the House had any such right, but whether, upon the face of the conduct of ministers, there appeared any thing that rendered its exercise necessary? The hon. gentleman who spoke last, had, no doubt, read the trial of Algernon Sydney, and knew, that disjointing a sentence would give an entirely different meaning to any passage; so it had happened with his hon. friend's observation, which, by a very little confusion, had been perverted from its meaning. Sir William advised the House not go again into the quarrel, and rip up all the grievances that had been forgiven.

Mr. *Jekyll* said, he knew there were many, who, at the same time that they were not desirous of imputing blame to ministers, were extremely anxious to see the papers that were now moved for, in order to know what opinion to form on the convention, and to ascertain how so large a sum, as the expenses of the armament amounted to, had been employed, and what was the objects that had been obtained? This, he was satisfied, was a very prevalent curiosity without doors as well as within. Conventions and treaties between this country and Spain had existed from so distant a period as the reign of queen Elizabeth; but the present was new in its nature and altogether unprecedented. An idea had already gone abroad that the much boasted fur trade consisted in nothing more than a parcel of cat-skins, not worth taking; that the right hon. gentleman having annihilated smuggling upon our coasts, was determined to enforce the prevention of illicit trade in the Pacific Ocean; but if this was the project, he was a little at a loss to know how it was to be effected; perhaps a squadron was to be stationed off Cape Horn, for the

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purpose of watching the smugglers! With regard to the whale fishery, it was asserted, that the whales never showed their noses in those seas in which our ships were, by the boundary drawn in the convention, permitted to go; and that even if our ships caught any, the Spaniards might seize upon the ships, and conduct them into their ports. On these accounts, therefore, many persons wished extremely to learn the grounds of the convention. As to the members of that House, how were they to understand the merits of the treaty, unless the papers in question were produced? What were they sent there for, but to inquire and make themselves masters of the grounds upon which the public money was voted? If the necessary information was refused them, they might just as well be sent back to their constituents as useless representatives, and leave every thing to ministers to manage as they thought proper. With regard to the doctrine asserted by Mr. Wilberforce, he had never heard a more dangerous nor a more unconstitutional one. He had last year given his confidence to ministers under the idea, that it was dangerous to call for papers relative to a negociation that was still pending, and from understanding that when the negociation was terminated, the papers would be produced, and he should have an opportunity afforded him of judging upon the policy of the measure.

Mr. Serjeant *Watson* said, it appeared to him that papers were now called for, not from a supposition that gentlemen were unable to comprehend the convention without them, but from motives of idle curiosity, and a determination to keep animosity alive. Was it likely, that two countries that had been on the eve of a war and were fortunately reconciled to each other, would become better friends from being forced to go over the ground of quarrel again! He therefore thought it much more prudent to negative the motion.

Mr. *Lambton* said, that if it was an idle curiosity to insist on inquiring into the grounds of a treaty that had cost the country three millions and upwards, and must occasion heavy and grievous burthens to be imposed on our constituents; God forbid that we should not display that idle curiosity as long as the House of Commons should exist? He would not give confidence blindly and implicitly. The House gave confidence last session, and they had a right to have information in return, now the negociation was terminated. Upon these constitutional grounds, he should give his vote for the motion.

Mr. *Burdon* thought the conduct of administration such as afforded ground rather for that House to extend their confidence than to withdraw it. He knew the majority of his constituents considered the convention as a happy termination of a dangerous difference.

Lord *North* said, that the season of confidence seemed to be past. There appeared to him to be more reason now to prefer conviction to confidence; the use that had been made of the confidence given to the minister last session, for the purpose of concluding a negociation then pending, ought now to be explained to the House, as the cause of keeping silence was removed by the termination of the treaty. Did ministers imagine that the treaty required no explanation? Was it not necessary to know the reasons for so vague a delineation of our rights in the north western American Seas as the convention contained, and of the boon of Spain's not colonizing beyond the most northern of her settlements? Was it considered that the convention hampered our trade with a new hovering act? Let the House but think of the desertions from our ships that the amiable adjustment of the treaty would occasion. By the papers on the table, a reason was not assigned for a single article of the expense incurred. Ministers might have seen revenue in the convention, but that was not a sufficient ground for approbation; and therefore he should vote for the motion.

Lord *Carysfort* thought that those who made the motion, were rather bound to show the good consequences that would follow from acceding to it, than those who opposed it were bound to show the danger that would result from it. If, when they came to consider the convention, the House should condemn it, then would be the proper time to call for papers, to see how far blame was imputable to ministers.

Mr. *Powys* said, that the doctrine laid down by the other side of the House went to a total abdication of the rights and privileges of the House, as committed to their guardianship by their constituents. The single question was, whether they should go into the inquiry with or without papers, with partial documents, or with full and complete proofs of all the grounds of the negociation? If he could

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not have the documents asked for, he could neither give his approbation nor disapprobation of the treaty.

Mr. *Drake* began with congratulating the House on the addition of orators to the stock of patriots, which they had that day witnessed; he said that he did not wish to interfere for the purpose of restraining the ardour of those, who, inspired by that which had invigorated him, the pure country air, felt so warmly for the public good. He pronounced an eulogium upon confidence, which, he said, formed the chain that kept men together on both sides of the House. Confidence was the great cement of society, it was the watch-word of the night with both parties; and what could form a stronger bond than mutual good opinion among men? If they had a good opinion of ministers in public and private life, should they withhold their confidence? Mr. Drake said, he was on no side of the House, standing, as he did, in a situation, by no means oratorical, [Mr. Drake was standing directly, under the clock] but he was one of those, of whom he hoped there would always be a chosen band in that House; men who thought for themselves, who were neither the spaniels of ministers, nor the followers of parties. He thought the convention bore on its face no ground of suspicion, but manifested a great deal of merit in ministers.

Lord *Belgrave* acknowledged the inquisitorial power of that House but, from the situation he held, he could venture to assert, that the production of the papers might communicate negociations with other courts, and lay a train of future mischief, which no side of the House would wish to see. With regard to the length of the negociation, the Spaniards were known to be a haughty and gallant nation, but a slow and operose people to negociate with: which, added to the impediments incidental to all negociations, sufficiently accounted, in his mind, for the length of time that had elapsed, before the treaty was brought to a termination. He did not see what service the production of the papers could effect, although they possibly might do much mischief.

Lord *Fielding* entered into a short detail of the operations of the Spanish fleet in the outset of the bustle, which was, he said, at sea a month before the British fleet entered the channel. He assigned his reasons for supporting the motion, and charged ministers with having acted suspiciously.

Mr. *Martin* thought it his duty to inquire, before he could decide upon the merits of peace, however desirable. When information had been before withheld he was not aware that there was any intention to keep it from the House after the negociation to which it referred should be brought to a termination, and the necessity for withholding it should no longer exist. No satisfactory reason had been assigned for withholding the information asked for, and he had heard a great deal of strong argument in proof of the propriety of producing it.

Mr. *Fox* began with observing, that there were undoubtedly many circumstances that might have tempted him to give a silent vote, but the question had been so ably argued on the one side and so weakly opposed on the other, by a friend of the minister (Mr. Wilberforce) who had libelled every principle of the constitution, as well as struck at the root of the first and most essential right and privilege of that House, that, odd as it might seem in him to make such a declaration, he wished that the other side, if they meant to reject the motion, had not given a single argument against it, but would have rejected it upon silent confidence, because, if they rejected it, after what had passed in debate, their negative must rest on the reasoning of the hon. gentleman alone, who had opposed it upon such extraordinary and unconstitutional grounds. Better would it be to recur to the ancient despotism of the kingdom, in the most arbitrary times, and consider themselves as met there to vote away the money of their constituents, without inquiry! If they voted their money thus they betrayed them, by not seeing how every shilling of that money was employed, and judging for themselves whether or not those entrusted with its application had applied it wisely, prudently, and economically. They were not such children in politics, as to need to be told that the merit of every convention and peace must be comparative, and could only be ascertained by a reference to the circumstances under which it had been made, and the advantage that ministers had taken of those circumstances. And how could that be known, when all the papers likely to throw a light upon the subject were obstinately withheld? On the face of the convention, it was said to be good: now, he

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declared, that on the face of it, it was evil, because much money had been expended to obtain it; and he would ask those who saw perspicuity and dignity in the convention, whether it was clear, that if we could be put, *bonâ fide*, in the state we were in before the convention was obtained, they could say it was not purchased too dearly? At any rate, such an assertion could not be credited, till they were, by the aid of the papers asked for by the motion, enabled to judge whether the same thing might not have been had at an earlier time, and at less expense to the country. He insisted that the doctrine of the hon. gentleman who had opposed the motion was not merely inconsistent with the principles of our constitution, but diametrically opposite to those principles. With regard to confidence, every government of every description had necessarily and unavoidably placed more confidence in ministers than was safe; and the only security which we had under our constitution, was, that after the effects were produced for which confidence had been given, by parliament exercising its inquisitorial functions, no minister could escape detection, if he had abused the confidence reposed in him. If, however, the hon. gentleman's doctrine were to prevail, and that House were not to inquire in cases of foreign negociation or treaty unless the transaction had, upon the face of it, something bad, or which challenged suspicion, how was it possible for them to exercise their functions with advantage to their constituents, or to detect the abuse of ministers, if abuse of public confidence had been practised, since, as his hon. friend had well observed, he must be a bad minister, indeed, who in such a case could not gloss over his conduct, and make his friends say, that, upon the face of a treaty, it bore proofs that it was a good treaty for this country, and that to attempt to inquire into it would be to interfere with the most essential prerogative of the Crown. If they had stood on the privileges of that House, as the trustees of the public purse, with as much firmness as the gentlemen on the other side had that day stood on the prerogative of the Crown, they could not have voted what they did last year, but there would have been on one side a dry maintenance of privilege, and a stiff adherence to prerogative on the other, to the serious inconvenience of the public, and to the extreme injury of their interests. When they gave confidence, they ought to receive information in return, and the time was now arrived when information might be given without danger. In order to illustrate the impossibility of their joining in a vote in favour of the convention, as it lay upon the table unexplained, Mr. Fox declared that he would state an hypothesis exactly different from his real opinion, and suppose Spain to have granted terms highly advantageous to this country; how could he know whether they were so or not, before he examined the convention, and the grounds upon which it had been settled? How could he give praise to ministers before he knew whether the convention was good or not? It could not be said to be good, unless we had attained something and lost nothing; unless we had procured something for nothing, it must remain a matter of great doubt whether it was good or bad. How could he tell whether Spain was not inclined to disarm much earlier than we had consented to do? And report said, that Spain had long since signified her inclination to disarm, provided this country would do the same. An hon. gentleman had expressed a hope that the minister would not suffer his "vanity to be piqued." He would not talk of any man's vanity; but if the minister had any honourable pride, what satisfaction could he have in that praise which came from those who knew not the grounds of it, who could neither tell whether the thing done could not have been done at a less expense, or in less time? It was better to be content with the praise of his own mind, since the right hon. gentleman knew more of the matter than they did, and consequently his approbation was of ten times the value of theirs. The hon. gentleman having feared that precedent would fail him, had abandoned precedents to have recourse to authority. He himself, Mr. Fox declared, approved authority: but how did he know what information the city of London was possessed of respecting the convention? If they approved of it without inquiry, was that a reason for the House to praise it without inquiry? And was the conduct of the city of London to be brought forward as an infallible example for that House? He reverenced the authority of the city of London, and had often supported it against the chancellor of the exchequer, who was not always in the humour to favour the conduct of the city.

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He believed that it could not be denied, that the authority of the city of London on the shop-tax and the tobacco-bill, was as much to be depended on, as upon a subject which the House of Commons must not inquire into. But it had been said by a gentleman that it might revive grievances. What, he would ask, was to have this serious effect? Why, letting the House of Commons know what the courts of Spain and of Great Britain knew full well already! The Spaniards, said a noble lord (Belgrave), were a proud, haughty people, but they were slow and tedious and operose, and, of course, forced us to make a great preparation for war, when one would naturally imagine that the very reverse would have been the consequence of such a character as the noble lord had been pleased to give them. Let not the House, therefore, upon such arguments as these, negative a motion founded in true wisdom; and, above all, let them not give to administration that base and treacherous confidence which had been recommended that day; a confidence founded in ignorance, which was a disgrace to their understandings, and a breach of trust to their constituents. Another noble lord (Carysfort) had stated rather a whimsical hypothesis, and had said, that possibly when they came to consider the merits of the convention, they might disapprove of it, and then it would be right to call for the papers. Let them see what a curious situation following the noble lord's advice would probably place them in? They would reject the present motion, and when, upon investigation of the convention, they should see ground for censure, they would then stand convicted of having rashly and prematurely negatived a motion, which they had found that they ought to have adopted in the first instance. If they approved the convention, trying it by the true test, the information the papers would afford, they would escape incurring so ridiculous a dilemma. During the last session of parliament, when these papers had been asked for, and another motion for other papers had been made by him, the words "during a pending negociation" were as common in the mouths of the minister's friends, who opposed the motion, as "Mr. Speaker," and "I rise, Sir," were common in the forms of address, as words of course, in that House. There was not a single speaker who did not lay great stress on the pending negociation. What was the natural inference? that the production of the papers was to be objected to during the pending negociation, and that when the negociation should be brought to a termination, the objection would be done away. How was this reconcileable with the negative of the majority of that House, which the right hon. gentleman had, a few days since, in so extraordinary a manner anticipated? In the debates relative to the affair of Falkland's Island, the very sort of papers then asked for had been granted; and why should they not be granted at present? The hon. gentleman, who first opposed the motion, contended, that in the debates on the Falkland island affair, impeachments, and axes, and gibbets, were mentioned. Was that all? He had thought that, exclusive of the able and masterly manner in which his hon. friend had opened the ground of his motion, one great and striking merit of his speech had been, that, although he laid proper energy on each argument necessary to support the question, he had strictly confined himself to saying what the subject required, and had not gone out of the case beyond its due limits. If his hon. friend had talked widely of impeachments, and gibbets, and axes, the two cases, to use a vulgar phrase, would have run upon all fours, and he might probably have succeeded; but the untimely omission had proved fatal to his motion. With regard to those axes and gibbets, those elegant expressions, those beautiful tropes and figures of speech—according to the hon. gentleman's argument, it was to be understood that the House, at that time, having voted for axes and gibbets, occasioned the papers to be called for, and their not having done so in this instance, was the true reason why the motion was likely to be negatived. One hon. gentleman had talked of the necessity of having a strong administration. When the affairs of Europe wore a critical aspect, a strong administration was highly necessary; but if by what he had said on this head, the hon. gentleman meant an administration which could do strong things, without being subject to the control of parliament, he must say, that this strength led to the excess of weakness, and would ultimately prove fatal to the existence of our constitution. If such praise was pleasing to the present minister, and he conceived conduct of that sort tended to

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the glory of the country, the glory of the country would bring on its destruction. If such, therefore, was the minister's relish, Mr. Fox declared that, though no personal friend to that minister, he had ever thought better of him, than to suppose him capable of receiving satisfaction from such gross flattery: he must, indeed, have a very low mind for so exalted a situation! Mr. Fox exclaimed, "Oh! what a better word was the old English parliamentary term 'jealousy,' to express the duty of that House, than the modern substitute 'confidence,' which had of late been adopted!" Formerly, the first great duty of every member of the House of Commons was, that he should regard every act of the administration with jealousy, and watch their conduct with the utmost vigilance and attention. Now, blind confidence was dwelt upon as the great function of that House, and they were desired to extend the degree of credit which they gave the minister to such an extravagant length, as to vote away millions of their constituents money, without expecting to know in what manner it had been expended. In fact, their duty was not only to judge whether the minister was an honest minister, but (what they had also a right to expect) a bold, an able, a prudent, and a wise minister. The way to have a bold, an able, a prudent, and a wise minister, was to let him know, that he was to be responsible to that House for all his measures, and that his conduct was to be, from time to time, inquired into. An ingenuous mind would court inquiry, and be proud to have every public measure which he brought forward scrupulously investigated. The moment, therefore, in which the House abandoned that part of its duty, the conduct of administration became dangerous and delusive; because a minister, who knew that his conduct would not be inquired into, might be tempted to pursue bad measures, till at last he involved his country in irretrievable ruin. The hon. gentleman who first opposed the motion, had left the other side of the House a hole to creep out at, in defence of the negative to the motion, by saying, that for these and other reasons he should oppose the motion. If, therefore, the motion was to be negatived, he hoped it would be for the unmentioned reasons, and not for those unconstitutional reasons which had been insisted upon. Mr. Fox alluded to what Mr. Wilberforce had observed relative to the information which he had received from his constituents, of their being satisfied with the convention, declaring that he should be glad to hear that the manufacturers had reason to think Spain more ready to encourage their goods than heretofore, but report had talked very differently upon the subject, and inferred, that a higher duty had lately been imposed on all English manufactures imported into Spain than ever.

Mr. *Pitt* said, that the turn of argument that had been maintained in support of the motion, naturally suggested two questions, the consideration of both which were extremely important; but, important as he felt the latter, he should lose sight of the former, were it not that it involved the fundamental existence of that constitution, under which the country had enjoyed so many blessings, and which had been admired as the most excellent of all forms of government, since to the freedom of a republic, it joined the energy of a monarchy, and wisely steered between these two dangerous extremes, the parent despotism and its offspring anarchy. Delicate as it must be for him to stand up and argue upon two such important questions, he should think he deserved to be considered as afraid to meet the subject and desirous of avoiding it, if he hesitated to deliver his sentiments on the topics which had been touched upon, as distinctly as possible. He hoped he discovered what was paramount to either vanity or pride, a sense of the duty of those standing in his situation. He declared he relied upon the candour of the House, for the credit of endeavouring to lay aside all personal considerations, and to treat the subject upon its true grounds: he should therefore argue it on general principles, abstracted from any view to particular facts or particular persons, since, added to the difficulties which had been thrown in the way, it was sufficient for a person, standing in the situation of one of those interested in the censure or approbation of the convention, to have the additional mortification to think that his own personal imperfections were made objects of argument and observation.—The hon. gentlemen who had spoken in support of the motion, had declared, that without the papers called for, they could not judge of the fitness of the transaction; and principles had been laid down, which he would confidently assert had

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never been recognized in that House to the extent that had been insisted on in that day's debate. The proposition, that on all subjects similar to the convention with Spain, it was impossible to come to a vote either of approbation or of censure, without having all the papers that referred to the negociation before them, was a proposition which was contradicted by numerous precedents. In cases of peace negociations, and treaties approved and condemned, they had never made it a uniform practice, nor by any rule of proceeding recognized it as necessary, to have all the papers before them. The hon. gentleman who made the motion, to whose feelings, possibly, it was more satisfactory to approve than to condemn, had declared that he could not bring himself to give a vote of approbation, unless he saw the papers in question; then, surely, it would be admitted, that it was not more just to disapprove, and to let the censure of that House fall with all its weight on a measure, without inquiry and foundation, when it would be unjust to approve what seemed to merit praise on the face of the transaction; and yet, although the hon. mover was not old enough to have been at that time in parliament, the right hon. gentleman opposite (Mr. Fox) must, for the sake of honour and consistency, recollect, that a very few years since, when a peace was made after a long, unfortunate, and expensive war, and when it was universally agreed that peace, almost on any terms, would be desirable, the right hon. gentleman, without any inquiry, and without calling for a single paper, had been able to persuade the House to come directly to a vote of censure on that peace.—With regard to the present convention, the only consideration which appeared to him to be necessary was, whether, on the whole, there was a possibility of obtaining better terms, and whether at more or at a less expense? That question was easy to decide, without any other papers than those now upon the table. If the inquiry proposed were to take place, was that inquiry to be limited to the result of the transaction itself, or to the result to be collected from the papers then moved for? To him it was clear, that it was of no importance to know whether this or that part of the negociation was proper, but whether the whole of the conduct of government, in bringing the late differences to such a termination, deserved praise or censure, and that question the House, he must contend, was fully competent to decide, from the papers already before them.—If it were asked, whether the sum of little more than three millions was not too much to give for the object obtained? he, in return, must ask, what would have been the extent of the expense, if war had taken place? and whether, under the present circumstances of the country, peace was not so desirable, that, next to obtaining satisfaction for the insult offered to the national honour, too much could not be said to be expended lavishly, if the result was the having secured the continuance of peace, and removed those grounds of difference which endangered its duration? The hon. gentleman, especially, had chosen to construe a refusal of papers, in one particular instance, where their production was totally unnecessary, into an unconstitutional determination to deny them in all. No part of his conduct warranted any such inference; and he knew not whether he should give a greater wound to the constitution, in saying that papers should be called for in all cases, or called for in none. It was by no means his wish to act upon the extreme in either case, but to do exactly what his hon. friend near him had said with so much propriety, and which he was happy to have been present to have heard him say, because, as he understood his meaning correctly, he was ready to take his share of the blame which such a declaration might be thought to deserve, and to avow, that he perfectly coincided in every syllable. He desired gentlemen to recollect, that it was not the right of calling for papers that was disputed, but the exercise of that right: that it ought never to be exercised but on grave occasions, when the reason for dissatisfaction appeared upon the face of a treaty. No executive power would be able to proceed through the business of government, if they were forced to go over every step of a long negociation in parliament. And if the House were always to go into an investigation of every part of their conduct in discharge of the duties of the executive departments, what a loss of time would repeatedly happen to that House, who would not find leisure to fulfil the more immediate legislative functions: indeed, if they went into inquiries unavoidably fruitless in most cases, they might as well say at once, "We will not inquire into the conduct and control of mi-

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nisters, but we will take the executive power into our own hands," and thus directly violate and destroy the basis on which our constitution rests.—With regard to confidence, respecting which so much had been urged, his majesty's ministers wished not for a blind confidence; but if a reasonable degree of confidence must be given by our constitution, they had a right to expect that, and they wished for no more; without it, ministers could not possibly carry on the executive government of the country. The hon. gentlemen on the other side had called for particular objections to the motion, forgetting that it was incumbent upon them to prove, that it would, if complied with, be attended with some material advantage; and until this was done, that side of the House held itself not bound to state any particular objections against the motion, but to rest their opposition to it on general grounds. With regard to the hypotheses stated by the right hon. gentleman opposite to him, Mr. Pitt observed, that hypothetical cases, however they might illustrate general rules, yet in the application of particular cases to general rules, they did not amount to reasons. He next proceeded to remind the House, that the conduct of ministers respecting the late differences with Spain, had been approved of, both in the last and present parliament; and in the address to his majesty, which had the concurrence of the right hon. gentleman, they had thanked his majesty for having been able to bring the negociation with Spain to the present happy termination. Without meaning to anticipate the debate on the convention, Mr. Pitt asked, if any man would state, that the precedent of Falkland's island was at all analogous to the case of Nootka and the convention? In that case, an island, known to have been in the possession of this country, and belonging to his majesty, had been taken possession of, though afterwards restored, but without a convention like the present one; neither was the convention in 1738 at all resembling it; on the face of both there was an apparent ground for blame; but in the present there was no such appearance. It was evident, that no claim had been conceded, that our right to the fisheries had been acknowledged, and that satisfaction had been obtained for the insult offered to the Crown.

The House divided.

Tellers.

Yeas	Sir J. St. Clair Erskine Mr. Adam - - - -	134
Noes	Mr. Neville - - - Mr. Steele - - - -	258.

So it passed in the negative. The second resolution was negatived without a division.

Debate in the Commons on the Convention with Spain.]—Dec. 14. The order of the day being read,

Mr. *Duncombe* said, he should not have risen to move an address to his majesty, thanking him for the convention concluded between this country and Spain, if he did not think that the convention had obtained every thing that could reasonably be wished for by this country. After a loyal compliment to his majesty, Mr. Duncombe asserted, that he knew his constituents, many of whom were concerned in capital manufactories, and the majority interested in mercantile concerns, to be deeply sensible of its advantages. His majesty was convinced that he reigned over a great and brave people, who would not pass by a national insult without resentment, and were too powerful to resist an insult without the strongest probability of obtaining redress. To these facts were we to attribute the acquisition of the blessings of peace; yet, desirable as these blessing were, they would have been acquired at too dear a rate, had they been obtained at the expense of our national honour. It was in consequence of an unprovoked insult that satisfaction had been demanded, and that satisfaction was obtained by the convention, which also secured to us the means of extending our commerce and navigation, and of giving additional vigour to our manufactures: when the enterprising spirit of our merchants, and the unparalleled skill of our manufacturers, were considered, what new sources of national revenue might not be opened to us in consequence of the convention so happily concluded! The treaty had cleared our political horizon, and dispelled those dark clouds which had been for some time gathering. Thinking as he did of the present administration, he augured a permanency of the present peace; nor did he conceive too sanguine a hope that Spain, under other councils than those which had formerly governed her, without the influence of compacts, and without ill-judged

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ambition, might be brought to be equally desirous with ourselves to maintain peace, and to enter into an intercourse amicable and desirable for both nations. After a handsome compliment to ministers for their great abilities and well-directed zeal in the service of their country, Mr. Duncombe concluded by moving "That an humble address be presented to his majesty, assuring his majesty, that his faithful Commons have proceeded to an attentive consideration of the declarations exchanged between his majesty's ambassador and the minister of the Catholic king, and of the convention which has since been concluded, and which his majesty has been graciously pleased to order to be laid before us: That we are eager to embrace the first opportunity of offering to his majesty our cordial congratulations on so satisfactory an issue of the late negociation, which has continued to these kingdoms the blessings of peace, has maintained the honour of his majesty's Crown, by providing an adequate reparation for the violence which was committed at Nootka, and has secured to his majesty's subjects the exercise of their navigation, commerce, and fisheries, in those parts of the world which were the subject of discussion; and that we observe at the same time, with peculiar pleasure, the happy prospect, which is afforded by this amicable arrangement, of avoiding future occasions of misunderstanding with the court of Spain, and of preserving that harmony and friendly intercourse which must so essentially promote the interest of the two countries."

Alderman *Watson* confessed, that he could not help feeling considerable satisfaction in seconding a motion so agreeable to his own sentiments, that had been made by the representative of one of the first mercantile counties in the kingdom. The citizens of London had also expressed their approbation, and every man concerned in trade, coincided in the general applause given to a measure so advantageous to England. He remembered with pleasure the feelings of the House, when his majesty's message came down on the 5th of May last, and their unanimity of determination to enable his majesty to obtain redress for the insult upon our honour. That redress was obtained, and every reparation had been made; but there were those who censured the negociation, as having been unnecessarily protracted. Delays, indeed, might have arisen, which, perhaps, would not have occurred, had it been necessary to direct our minds to one point only. But when his attention was directed to the South West, he could not confine his mind, and it naturally turned to the North East; where, from what he conceived he saw going forward, had he been suffered to direct, our fleet should not have sailed, till every ship in the North was fixed immoveable on her bed of ice. By the convention the claims of Spain to the Pacific Ocean and the South Sea, were done away, and a free and full right allowed of navigating them, admitting an hovering law ten leagues, which was nothing in an expanded ocean, nor to be compared to our hovering act of four miles in the straights of Dover. The free intercourse we had obtained must please every commercial man, since it was evident that the enterprise of British merchants, and the experience of our seamen would derive from it great advantages. Let those who thought that no advantages would result from the convention, read the voyages of Southern navigators, and they would there meet with the straights of Magellan—a naked country, which produced no animal, not even man, but near which were plenty of whales, though some persons had said that no whale was to be found there. He considered the convention to be a great boon for a little treasure, which treasure was not, however, all gone, for we had new stores in our naval arsenals; we had an increase to our ordnance: and we had convinced Europe that we could fit out a fleet of fifty sail of the line, the best appointed that ever went to sea, in the course of five months, a fleet with but one voice, which induced him to lament, if he might be permitted to say so, their being checked from entering on a career of glory.

Mr. *Pulteney* feared we had gained too much to give us reason to expect Spain readily to engage with us in any amicable intercourse. He considered the question to be, whether we had not insisted upon more than we were justified in demanding, and hazarded by future consequences, greater advantages than we had gained. We had gained a fur trade, and the Southern whale fishery; the fur trade would speedily be of little importance; for the increase of their number in a market would lower their value; and the whale fishery, he feared, was carried on in the South Seas, more for the purpose

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of smuggling, than of catching whales; for that was, in the South Seas, a losing concern. To prove this, the hon. gentleman read a statement, by which it appeared, that notwithstanding the produce of the Greenland fishery was so extremely superior to that of the Southern fishery, the same quantity of the former, which might be sold for 170*l.* might be bought of the latter for 90*l.* He feared, that the measures we might take to fulfil our engagements to prevent smuggling, would not obtain the end for which they were adopted. He alluded to the bounties granted to the Southern fishery, and apprehended that it would never answer the purpose of the public in a fair trade; and an illicit one was certainly beneath the support and countenance of a great nation. Being happy in the termination of the dispute, he should give the motion his support.

Mr. *Montagu* considered the fisheries of the utmost importance, and thought that the hon. gentleman looked upon them in too narrow a view, as he had talked of them as a mere matter of bargain, without regarding the advantages which would result from their increasing our navigation and improving the skill of our seamen. He then noticed the difficulty conceived in doubling Cape Horn, in the time of lord Anson, though now the voyage was considered to be no difficult task to perform. He thought the best way to judge of the importance of a trade was, to observe whether it was esteemed by mercantile men: such esteem was marked in the Nootka Sound trade and the Southern fisheries, by the general desire of partaking therein. The question was, whether the greatest coast in the world should be touched by British seamen or not? He entered into a state of the fisheries for the four last years, and concluded by approving of the bounty to the persons employed therein, by which, he said, we were maintaining seamen, and in maintaining them, were strengthening the nerves of the country.

Sir *John Jervis* ascribed the difficulties which lord Anson had encountered, less to the navigation, than to the obstacles which had been thrown in his way by persons in England.

Mr. Alderman *Curtis* rose to make his maiden speech, which possessed all the blunt characteristics of commercial oratory. He concurred heartily in the applause with which the convention was received by his constituents in the city, and was very well satisfied of the benefits that must result from it. He proclaimed that he was himself a fisherman, and gloried in the character. He had found the advantages of trade, and should continue to pursue them. There were at present more ships, to his knowledge, preparing for their voyages on the Southern whale fishery than on any former occasion; and he made no doubt, but the trade would have been long since more flourishing, but for the apprehensions which the fishermen had of the Spaniards who were constantly annoying them. With respect to the fur trade, he could not speak with equal certainty, as not having had the same experience. He once attempted to deal in that article, but had, by some accident, been prevented from proceeding. He would now, however, embark in that business, and had no apprehensions of the price diminishing; for the Chinese were a people so fond of pleasing themselves, that when they took a liking to any thing they cared not what they gave for it. He concluded with remarking, that he considered the Southern fishery more valuable than the Greenland, for he had himself a quantity of the Southern oil, which he sold at 50*l.* per ton, whilst the Greenland was selling for 18*l.* or 19*l.* per ton.

Mr. *Stanley* (member for Wootton Basset) said;—Sir; it is with peculiar satisfaction that I rise to deliver my sentiments on the present occasion, when the transactions of the late summer and the conduct of administration relating to the differences of this country with Spain, are to be discussed in parliament. An address of thanks to his majesty, for the happy termination of these differences, has been moved; and I hope it will meet with no opposition. To me the papers on the table appear fully to justify the approbation of this House; they seem, indeed, so satisfactory, as to supersede entirely the necessity of complying with the wishes of some gentlemen for farther information. The papers they require cannot be produced, without a disclosure, which, from its very nature, must be attended with many inconveniences, and might not occasion any advantage.—When information of the insult offered to Great Britain by the Spaniards, was first given to the public, well do I remember the indignation expressed by every individual at the wanton cruelty and injustice of the offence. But one sentiment pre-

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vailed through the nation; there was not an Englishman who would have refused his last shilling to revenge the cause of his countrymen, and vindicate the honour of his country. Reparation, however, has been made for this offence — ample and unequivocal reparation. We have received an apology highly grateful to our feelings, and a concession from arrogant and insulting pretensions, as advantageous as we could wish. We are now authorized to navigate, undisturbed, the Pacific Ocean, and to settle on all its unoccupied shores. Such a termination as this cannot but be favourable to Great Britain. Very different, indeed, was the conduct of administration in the days of sir Robert Walpole, and in the more recent dispute relative to the Falkland Islands. It was with the greatest reluctance that the first entered on a war, that had been justified by repeated injuries. The second also was highly blamable for suffering the Spaniards to insert in the treaty those very claims and pretensions which had been the cause of the insult. For the present administration it had remained to assert the dignity of Great Britain in a becoming manner. The pride of Spain was now humbled as it deserved; and who ought to complain of the sum the late armament had cost, when it had procured so necessary a vindication of our insulted honour? In answer to an observation which had been made, that without so great an armament, Spain might have been induced, at a much earlier part of the summer, to have made us that reparation which we obtained at last, I say, it is not probable that this would have been the case. What appearances justified the supposition of pacific intentions, or an inclination to compromise, in the court of Spain, on the terms we offered? What papers are wanting to show how averse that nation was, from the beginning, to any reasonable accommodation? Of facts, there were sufficient to support a different opinion. Spain had been long preparing a great armament in silence, more formidable than any she had ever produced since the days of the famed armada. The insult had been long in meditation. The language of the viceroy of Mexico, urging their haughty pretensions, and excluding us from any settlement between Cook's River and Cape Horn, at once declared the disposition of the Spaniards. By our spirited exertions, this disposition has been rendered ineffectual, and ministers have obtained for us all the submissive reparation we, in our hearts, could wish.—As to the advantages promised to us by the convention, gentlemen have shown what may be expected from the fur trade, and Southern whale fisheries. The former is as yet in its infancy, and therefore cannot be properly estimated. Some speculation, however, may be indulged on those advantages which are now only in faint perspective. A new continent is opened to the commercial spirit of our countrymen; and a new sea, strewed with innumerable islands, is declared free to our navigators. What may be the value of these sources of wealth, cannot at present be determined, but it will certainly be very great. The Southern fisheries will now be prosecuted in peace and security.—I do not propose to dwell on the narrow investigation of any branch of commerce affected by this convention; but I shall advert in general to the increase of trade with China, which will probably arise from it: no matter if at first it should not be very considerable, still the importation of new articles into that empire, is another link added to the commercial chain with that great and populous country. — But, independent of these advantages, which, in the mass, are certainly very important, it would have been a mortifying circumstance, had we tamely left to the Spaniards the undisturbed possession of half a world. Were we to be excluded from seas which we had explored at a great expense? Whether viewed as adding only to our store of geographical knowledge, or as an attempt to discover new channels for our commerce, these expeditions had done great honour to the kingdom. And now that the information brought home had prompted adventurers to risk their lives and fortunes, in pursuit of the advantages promised to them by our circumnavigators, and were beginning to experience how well-founded these promises had been, were we to abandon the prospect before us? Ships have been fitted out at the same time from London and from the East Indies, with a spirit of enterprise highly honourable to Englishmen: and shall we, by refusing to arm in defence of our rights, suffer this spirit to evaporate in fruitless preparation? Certainly not.—It has been observed by some gentlemen, that England has not gained by this convention an exclusive privilege of settling on the north-west coast of Ame-

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rica, but that other nations will share in this advantage at our expense. I do not, however, consider this circumstance in the light they do: on the contrary, it heaps additional honour on this country, that we, of all Europe alone, have had the spirit and perhaps the power, to assert the rights of nations. We alone have redressed the general grievance, and punished the arrogance of the haughty Spaniard: we have forced them to relinquish their usurpations and pretensions to unbounded empire, and we now meet with the reward of our generous exertions. The superiority of this country is acknowledged universally, and the name of Englishman is a glorious appellation.

Sir *William Young*, having premised, that upon the King's message relative to our difference with Spain, an hon. member of opposition (Mr. Fox) had remarked, that with regard to the possession in dispute, no claim could be satisfactory, except the claim of occupancy, observed that right of occupancy had now been obtained. He enumerated former treaties, in all of which Spain had denied our right to the possessions which it had now granted. He remarked how desirable it was for Britain to be the instrument of securing the privilege of a free sea, not only to her own subjects, but to all the world,

Mr. *Grey* expressed his astonishment at hearing it asserted that the possessions ceded by the convention to this country, had been obtained contrary to the engagement of former treaties. Now, what was this but to deny the right of this country to these possessions; as treaties surely could be the only criteria of that right. Considering the convention in the light he regarded it, he could by no means concur in the address of approbation. The original principle held out in his majesty's speech, of an absolute and positive right, had been departed from, and in its stead a right, uncertain and illusive had been substituted. We were allowed to make settlements; but how? Where were we to go? What was the extent and situation of the boundaries assigned? Were we to be told, that we were allowed to settle somewhere, but the place was left undefined? What, then, was it that we had gained by this convention? What accession had we made to our privileges or possessions? We had before a right to trade with Spain. Were we now permitted to extend our commerce to Nootka? It was no where mentioned in the convention: nay, it fell expressly under the list of those places which were to be given up to Spain, and for which we were bound to accept a compensation. With regard to those places in which we had obtained a settlement, it was only in conjunction with the Spaniards: access was every where left to them: where we might form a settlement upon one hill, they might erect a fort upon another. A merchant must run all the risk of discovery, and all the expenses of establishment, for a property which was liable to be the subject of continual dispute, and could never be placed upon a permanent footing. Where, then, were the boasted advantages of this convention? Where, then, was its tendency to prevent the occurrence of disputes, and secure the continuance of harmony? We have neither increased our possessions, nor insured our hopes of tranquillity. By the convention, nothing had been settled—nothing had been secured. With regard to our rights, we were left in a state equally uncertain as before; while the probability of an approaching rupture, instead of being diminished, was still more to be apprehended than ever. For these reasons he should move "That the House do now adjourn."

Mr. *Dundas* contended, that sufficient information had been given, to warrant the House in proceeding to a discussion of the merits of the convention. When intelligence of the outrage committed at Nootka arrived in England, his majesty was pleased to make an immediate communication to the House, that violence had been exercised by the court of Spain towards British subjects, founded upon an usurped claim of an exclusive right to occupancy, navigation, and commerce, in the Pacific Ocean, and that the honour and dignity of the nation were immediately affected by such a wanton and unprovoked attack. The House at once resented the insult, by a unanimous vote in support of measures for retaliation. An adequate reparation was demanded for the injury sustained by individuals, as well as a complete satisfaction for the indignity offered to the nation. In regard to the first point, a reparation had been obtained, as specified in the declaration and counter-declaration, in the month of July. Such had been the compensation acquired by this preliminary treaty, that an hon. gentleman had doubted whether

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the friendship of the Spanish nation would not have been easier conciliated and better secured by a display of greater moderation and generosity. But as the wild and extravagant claims of Spain to an exclusive right to all the south-west coast of America, had been countenanced by our tacit submission, and by that of other European nations, this circumstance might be some extenuation of that absurd pretension. The spirit of the nation was roused at last to vindicate its honour, and to assert an equal right with Spain to occupancy, trade, and navigation in those parts. Whatever settlement we had at Nootka, every thing was restored according to circumstances, either in land or pecuniary compensation. So much as to reparation. But it had been asked, what had we for the security of our settlement? Was there any precise line of demarkation drawn as a boundary? No. This was impracticable; as we were not contending for a few miles, but a large world. How could lines of demarkation, then, be drawn, without infinite delay, and an enormous unnecessary expense? We ought, then, to proceed upon another principle. At Nootka we had obtained a specific right of settlement, to trade and fish, and Spain, by the convention, had receded from her claim to exclusive right. The fishery had flourished with a rapidity unequalled, when even cramped by restrictions. With what rapidity, then, must it improve, when every impediment to its prosperity was removed! This country would not be limited in its market. Its wealth was founded upon the skill of our manufacturers, and the adventures of our merchants. These raised our armaments, and rendered us formidable in the scale of nations. Our prosperity was the admiration and envy of the world. We did not insist on any right to invade the colonial rights of other nations, in order to extend our commerce; but the spirit of commercial adventure in this country was unbounded. Much had been said as to the duration of the negociation; and a reference had been made to the Falkland Island convention: but did gentlemen consider, that in the negociation there were two treaties; a preliminary one, demanding reparation, which was concluded in July; and another, ratified in November, adjusting the matter of right to occupancy, trade, and navigation? The Falkland Island negociation had been as long depending as the present, with this great difference, that the parties were all in London; yet the expense amounted to three millions, and little more than that sum had now been expended, notwithstanding the great distance between London and Madrid. The procrastination complained of was reasonable; and the effect it had produced, by the ready equipment of as complete a fleet as ever appeared upon the ocean had more than compensated for the expense, by the estimation in which we were viewed by all the states of Europe.

Mr. *Windham* said, that he must take the liberty to express his doubts whether his right hon. friend who had spoken last had clearly and satisfactorily proved that our honour had received a reparation, and that our rights had been settled beyond dispute. How, he would ask, was it possible for him to be convinced of the justice of the assertion, without seeing the documents upon which he was to suppose that it was grounded? For his own part, he perceived nothing in the convention; to him it appeared open for endless disputes. He considered the hovering act allowed to the Spanish settlements, to be of ten times more importance to them than any thing given to us. It was said, that we had a right to all the territory which did not come within the extent of the Spanish occupancy; the extent of the Spanish occupancy had been allowed to be fluctuating and various, for which reason it was out of our power to fix any precise limits; we were, therefore, guilty of a strange contradiction, in declaring ourselves to have marked out that distinction of boundary, which we at the same time confessed impossible to be made. With regard to the time, it was difficult to say that the negociation was too long or too short, because gentlemen had been kept completely in the dark on the subject. Better terms, however, he should imagine, might have been obtained; and, after all, the worst event would have been to have gone to war; a war, in which, he conceived, there would have been nothing to fear, except that which was already, in a considerable degree, incurred—the expense.

Mr. *Smith* said, that the whole coast of Prince William's Sound was free for us to settle on, no place being occupied there by a Spanish colony; and that all the great points at issue were amicably settled by the convention: we had ob-

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tained a total renunciation of unlimited claims, and a full reparation for the insult to the British flag; nothing more could be required.

Colonel *Phipps* was convinced that the convention was highly advantageous to this country. He thought that the fisheries in the South Seas would serve as an excellent nursery for seamen, and argued, that gentlemen were mistaken when they insinuated, that the convention would tend to the diminution of our trade.

Mr. *Windham*, in answer, stated the value of the southern fishery as a nursery of seamen, and explained, to show that his hon. friend had misconceived his meaning.

Lord *Muncaster* pronounced an eulogium not only upon the convention, but upon the minister, for the great ablilities he had evinced in bringing it to perfection in so short a time. He lamented that any attempt should be made to throw a shade over the merits of a measure which called for universal applause. He was at a loss to conjecture what might be the intended effect of the opposition which had been made by gentlemen on the other side of the House. Though a friend to the minister, he had ever been an admirer of the distinguished abilities of those gentlemen, and always conceived, that notwithstanding the contentions for power in which he saw them engaged, yet, when the public interest was at stake, but one sentiment pervaded the House, and men of all parties were unanimous in promoting an object so dear to Englishmen. He was the more at a loss when he considered the candid conduct of the gentleman to whom he alluded in 1787, when a measure similar to the present was under discussion.

General *Smith* condemned the convention. He could not conceive by what motives the ministers were impelled to a conclusion so disgraceful to the real interests of the country. Speaking of the affairs of India, he affirmed that we were ignorant of the policy of that quarter of the globe, and that with regard to the advantages resulting from the convention, the expenses far exceeded any that could be mentioned. As to confining any articles of pacification for the traffic of Nootka, he was astonished when it was well known that the inhabitants were a species of cannibals!

Mr. *Rolle* declared himself a zealous advocate of administration. Respecting the county of Devonshire, he had no hesitation in taking the opinion of the nation from those of his constituents. In this view the conduct of government had been the subject of much praise. Hence he would repose in them that confidence which he thought requisite, but he would not repose in them that implicit confidence which some gentlemen affected to censure.

Mr. *Ryder* said, that the present was a question of such importance, that he wished to offer a few words respecting it. The gentlemen on the other side had ridiculed it as a question of confidence, which they reprobated. He could, were it necessary, prove, from very high authorities, that there often did occur questions, in which it was the duty of that House to give full confidence to ministers; treaties were among the number. With regard to his right hon. friend, his declarations and conventions did him the highest honour. The claims of Spain, though exorbitant, were what she had long made, and would have enforced, had she been able; he rejoiced, therefore, that at a fit opportunity it had actually become necessary for this country to arm and enforce her rights. Had it not happened this year, it must sooner or later; and had Spain stood in other circumstances, a war at any rate must have been the consequence. Fortunately for us, that calamity had been avoided, and we had obtained our object —not what might be regarded as new rights, but the acknowledgment of rights long resisted and disputed. The obtainment of that object, therefore, was surely of no inconsiderable value. It had cost us three millions and a half; and although that sum must be acknowledged to be a large one, yet, when all the circumstances were considered, it was, in his opinion, fully justifiable. He did not mean to say, we were the better for the expense, but the insult once given, we were bound to resent it, and procure reparation for the national honour, or we should have incurred the contempt of all Europe. He advised the House to compare the whole business with the affairs of private life. An affront is given, a duel is fought, but gentleman-like satisfaction has been obtained, and there remains the surgeon's bill to pay. It would be said, the situation of the affronted person was not the same as before; it was true; but let the situation of the person affronted be compared to what it would have been, if he had not resented

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the affront; he must in that case, have remained the perpetual scorn of all who knew him, and be constantly exposed to receive a similar affront. So with us; we had spiritedly resented an insult as soon as we knew that it was offered, and had manifested to all the world, that an insult could not be offered to us with impunity.

Mr. *Fox* prefaced a most able discussion of the convention, and the general policy of Great Britain with respect to foreign powers, with some remarks on the singular mode in which the debate had been opened. It was hardly worth while to notice particular modes of speaking, except when, by frequent repetition, they grew into a sort of fashion, and seemed to convey ideas not strictly constitutional. It was perfectly fair for any gentleman to say that he had the honour of representing an extensive county, or a great commercial city, and that such or such he conceived to be the sense of his constituents; but to introduce this with a view of giving greater weight to the opinion that he was to deliver, or any weight but what it might derive from the force of his argument, was neither proper nor parliamentary. The leading principle of the House was, that all the members, whether knights of shires, citizens, or burgesses, were on a footing of perfect equality. They were not to consider themselves individually as the representatives of this or that particular body, but as the representatives of the people of Great Britain; and in this point of view, the voice and opinion of a member returned by the most rotten borough in the kingdom were of equal authority with those of a member returned by the most populous city or county. This mode of speaking, however, the gentlemen who moved and seconded the address, had thought proper to adopt, and with a reference also to the opinion of their constituents on the measure before the House. How they were assured of that opinion, it was not his business to inquire. As far as he had heard, it was a measure on which the country at large was much divided; and on which few gentlemen could venture to pronounce what was the opinion of the majority of their constituents. But it was the duty of the House to examine it on its own proper merits, without regard to opinions, or reports of opinions, and instead of debating about what were the sentiments of the manufacturers of Yorkshire or the merchants of London respecting it, to confine their attention to such information and such documents as were regularly before them.

A noble lord (Muncaster) had expressed his surprise at the present conduct of gentlemen on his side of the House, compared with their conduct on a similar occasion, in 1787, when the interposition of this country in the affairs of Holland was under discussion. Those who had alluded to that transaction, had done him the justice to acknowledge that he had liberally commended the measures then adopted; and this, instead of exciting their surprise, ought to be considered as a proof of his sincerity in condemning the measures now under discussion. If the late measures were so generally popular as they had been represented, those who voluntarily incurred the risk of unpopularity, by arguing against them, were surely entitled to credit for the purity of their motives. It was easy at all times to swim with the tide, and something might be gained by flattering popular opinion. To oppose it, was a task as unprofitable as ungracious; and he who undertook it, must reasonably be supposed to act under the influence of some stronger and more laudable motive than the affectation of singularity. He was ready to own, that he wished for popularity; he had enjoyed the possession of it; he had been mortified by its loss. Neither the one nor the other depended on himself; but it was always in his power to do what he felt to be his duty; and he had ever held the pleasing of his constituents to be an inferior consideration to that of discharging the duty with which they had entrusted him. An hon. gentleman, the representative of a large county, (Mr. Rolle,) had said, that his constituents reposed great confidence in the minister. Their confidence was no argument for the confidence of the House. He, as the representative of a city, not the least populous or opulent in the kingdom, composed of inhabitants of as various descriptions, and likely to be as well informed as those of any other, could refer to stronger proofs of the confidence of his constituents than any that the hon. gentleman could produce, were he to consider these as any corroboration of his argument.

Instead, however, of resorting to this sort of authority, he wished to enter into the discussion of the convention on such information as the House had before them; and first, to give his reasons for voting for the motion of adjournment,

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rather than for a motion of praise or of censure. When the House resolved last night that they would see no papers but the papers on their table, they precluded inquiry, and, of course, rendered censure and approbation equally improper. When the necessary illustrations were refused, it was impossible to say whether the measure was beneficial or the contrary. Had they any means of knowing that the terms obtained by the convention, or terms relatively as good, could not have been obtained in the first stage of the business, before the declaration and counter-declaration were exchanged, immediately after they were exchanged, or at some intermediate period, between that and the 4th of November?' If they had precluded themselves from knowing the circumstances on which the merit or demerit of the negociation so essentially depended, on what pretence could they either censure or approve? If it was true that Spain had offered to disarm immediately after the exchange of the two declarations, which there was reason to believe, although they had resolved that they would not inquire, ought they to pass a vote of thanks to his majesty's ministers, when, by agreeing to disarm in August, the greater part of the expense, and much of the loss and inconvenience naturally resulting from the hazard of war, might have been saved? These were surely good grounds for suspending their opinion: but if he thought the convention as good, advantageous, and secure, as he thought it bad, insecure, and inadequate to what the country had a right to demand, he would not vote for an address of approbation, on the blind confidence that was demanded of him; and for this too, some additional reasons had appeared in the course of the debate.

The hon. magistrate who seconded the address, had felt himself called upon to give a specimen of his local knowledge, from which he had been able to collect no more than that the straits of Magellan were to be found in the extremity of the south of America. But he had traversed the globe, from the north-west to the north-east, and emphatically demanded, "who did not see that we must continue armed, till the Baltic presented to the northern fleets a plain of impenetrable ice?" If it was true, that the fleets of the Baltic had been the reason for our continuing armed, which, as well from the quarter whence the intimation had come, as from other circumstances, there was ground to suspect, he should be glad to hear it from authority. On the policy of such conduct he would not touch; but if ministers had kept up an armament for one purpose, they ought not to call upon the House to pay for it under colour of another. This, on the face of it, would be a circumstance of strong suspicion, which, if they suffered to pass over without examination, they were no longer the controllers and the judges of public measures, but mere tools in the hands of the executive power. It had been observed by some one, that free governments were ill calculated for those master-strokes of policy, by which one end was more easily effected, while another was pretended to be kept in view. Now, he conceived it was a merit in free governments, not a defect, that they prevented those strokes of crooked and insidious policy, which none but the weak would admire, and none but the wicked would execute. Were the House to sanction such a line of conduct, the government of this country would be worse and more faithless than the most absolute despotism; because, under the colour of a free government, ministers, by collusion with the House, would be enabled more effectually to deceive. It was a fundamental principle of our government, and a principle never to be departed from, that the House of Commons was, on no pretext, to vote money for one purpose, when the expense had been incurred for another. He should not have said so much on the strength of an observation from an hon. gentleman not immediately connected with, though very friendly to administration, if it had not struck him as being, perhaps, the clue by which the whole mystery might be unravelled, of keeping up an armament, while the cause was so studiously screened from examination.

It had been the general language of one side of the House to magnify the necessity of vindicating the insulted honour of the country. On this point he entertained the same opinion now that he had fairly stated in the late parliament. He had given it as his opinion, that reparation ought to be made for the insult offered to the national honour, and that no reparation ought to be deemed sufficient, that did not include in it a security against future insult. Honour to nations was, perhaps, the only justifiable or rational ground of contest. Wars for the sake of

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conquest, of acquiring dominion, or extending trade, were equally unjust and impolitic. He who vindicated the honour of a country, was the advocate for its dearest interests; because, to vindicate its honour was to secure its peace. This principle had been adopted in the beginning of the dispute. He would, then, examine how it had been followed, and trusted that he should show that the point of honour had been compromised in the very first step. Reparation for the insult was the first object, and the arrangement for preventing future disputes, the second. He should consider each in its order.

The reparation obtained was, *primâ facie*, insufficient. It fell infinitely short of that which had been obtained on the dispute about Falkland's island, notwithstanding the affectation of contempt with which the satisfaction demanded on that occasion had been treated. Reparation was then the only object in view, and it was obtained in its fullest extent; for Spain agreed to put every thing in the same situation as before the insult complained of was committed, and actually did so. In that case, there was a full and complete restoration; in this, there was only a declaration of a disposition to restore, but without any restoration in fact. It was true, that a very respectable minority of the House of Commons had disapproved of the terms then obtained; and at the head of those who thought the reparation insufficient, was the late earl of Chatham; but, was it to be compared with the mere verbal restitution? — for as yet no more was obtained by the convention. If he disapproved of that, what terms of reprobation would he not have applied to this? Had we abandoned all claim to every part of north-west America, having made a settlement at Nootka, with no intention of infringing on the rights of Spain, but under the idea of a just right, that settlement ought to have been first restored to us in the same situation as we possessed it, as a reparation for the insult received by the forcible ejection; and therefore, in the only fair comparison that could be made between the two cases, the present convention was worse than the despised convention of Falkland's island. A learned gentleman (Mr. Dundas), had strongly censured the convention of 1771, because it had not cut off the occasion of future quarrel, as the present did, by confining the pretensions of Spain within proper limits. Yet that convention, bad as he now thought it, the learned gentleman had been within eighteen months of supporting; for having supported all the measures of the ministers who made it, from the day on which he took his seat in parliament, to the day on which they went out of office, it was more than probable that he would have supported that also had he been in parliament when it took place. The learned gentleman ought to recollect that, on that occasion, no arrangement to prevent future disputes had been promised; and that all that was promised had been performed. He ought, therefore, to have treated that convention with less severity, if not from regard for his former friends, as a mark of gratitude for the fruit it had produced. If, as he had argued, it contained the seeds of the late dispute, which, in twenty years, had grown to maturity, and afforded an occasion for obtaining the inestimable advantages which the learned gentleman attributed to the present convention, so far it was accessary to the boasted triumph of the minister, and so far, at least, it was entitled to the learned gentleman's respect. The learned gentleman had also said, from information which he no doubt possessed, but of which the House knew nothing, that the advantages of the present convention were in a great measure owing to the length of the negociation. Had it been but sufficiently protracted, it was impossible to say how high the sum of our gains might have risen! But as these were facts known only to ministers, they formed an additional reason for coming to no vote without farther information. It had been amplified as a great accession of national honour, that we had broke through an unreasonable claim, not only for ourselves, but for all other nations, and that it became the dignity of a great people to destroy such claims wherever they were found. But would any man seriously defend the romantic doctrine, that we were to make all other powers with whom we might have a dispute, renounce absurd claims, perhaps in no wise connected with it, before we agreed to an accommodation? On this principle, might his majesty be attacked for his claim to the title of king of France, and the kings of Naples and Sardinia, for styling themselves kings of Cyprus and Jerusalem. All that we had to do with the claims of other nations, however ab-

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surd they might be, was, when they were made the occasion of difference, to insist on their being so regulated as to prevent disputes in future. Of those who had been concerned in the convention of Falkland islands, he had the honour of living in habits of friendship with some: others were members of the present administration, and might be supposed to have atoned for their share in that transaction, by the great and important services to which they had lent their aid in that capacity. It was, therefore, rather hard to revive the opprobrious memory of that measure, for the sake of a reflected compliment to the minister—not the minister in whose office the business of the convention was transacted, but the minister who presented it to the House of Commons, and to whom all the honour of it was attributed, as if it had been his own single act, from the fondness that had lately prevailed of praising men who were present. Of that honour, however, the other members of the cabinet ought to have their share, and it was unkind to allude to the pusillanimous convention of Falkland's island, as it was now called, when the president of the council had atoned for his share of the demerit of that transaction, by his share of the merit of this. It was evident, however, that we had fallen short of our first object. The reparation promised was incomplete, and what was promised had not been performed. On the point of honour we had nothing to boast; for the ground of our triumph, we must therefore look to the arrangement made for preventing future disputes. He was ready to admit that the occasion was favourable for settling all disputes respecting the undefined claims of Spain. The chancellor of the exchequer, when he presented his majesty's message to the House, had said, that full and complete satisfaction must be obtained for the insult offered to the national honour, previous to any discussion of the contested right, and that no satisfaction would be considered as complete, which did not take away the ground of future quarrel. This determination the House adopted, and he rejoiced in the prospect of avoiding the trouble and expense of a tedious discussion of a question of right. In the conduct of the business, however, a contrary mode had been adopted. We had contrived to bring the question of right into discussion almost in the very first instance, and after satisfaction for the insult was offered and accepted, the convention, which thus became a distinct object, had cost as much as the reparation for our injured honour. The learned gentleman seemed to triumph in this expense, and demanded, whether it could be considered as bearing a comparison to what it had been the means of obtaining? In estimating what we had obtained, we must take into the account what we had conceded; and by this criterion he should try the second part of the convention.

In the early part of the debate, he had heard nothing but rodomontade about our acquisition—nothing but of new sources of trade, new objects of enterprise, new oceans and new continents opened to the activity of our merchants and the courage of our sailors! Such flowers of rhetoric were elegant embellishments, equally convenient to give force to argument, or to conceal the want of it: but, was it true that we had opened any of those sources, or made a single acquisition? The hon. gentleman who spoke last (Mr. Ryder), had put the question on its true grounds. Having caught the contagion of the speakers who preceded him on the same side, he had talked of gaining and acquiring, but, in the progress of his argument, he had very properly stated that we had acquired nothing, but only obtained security for what we possessed before. This was precisely what we had obtained; an advantage, no doubt, because it was often wise to give up part of an unlimited right, to secure the uninterrupted possession of the rest; but an advantage to be estimated by comparing what we gave up with what we retained. What, then, was the extent of our rights before the convention—(whether admitted or denied by Spain was of no consequence)—and to what extent were they now secured to us? We possessed and exercised the free navigation of the Pacific Ocean, without restraint or limitation. We possessed and exercised the right of carrying on fisheries in the South Seas, equally unlimited. This was no barren right, but a right of which we had availed ourselves, as appeared by the papers on the table, which showed that the produce of it had increased in five years from twelve to ninety-seven thousand pounds. This estate we had, and were daily improving; it was not to be disgraced by the name of an acquisition. The admission of part of

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these rights by Spain was all we had obtained. It remained to inquire what it had cost. Our right before was to settle in any part of South or North-west America, not fortified against us by previous occupancy, and we were now restricted to settle in certain places only, and under certain restrictions. This was an important concession on our part. Our rights of fishing extended to the whole ocean, and now it too was limited and to be carried on within certain distances of the Spanish settlements. Our right of making settlements was not, as now, a right to build huts, but to plant colonies, if we thought proper. Surely these were not acquisitions, or rather conquests, as they must be considered, if we were to judge by the triumphant language respecting them, but great and important concessions! Every new regulation was a concession, not an acquisition. It was, indeed, said, in his majesty's message to both Houses of Parliament, that a claim was asserted by Spain to the exclusive rights of sovereignty, navigation, and commerce, in the territories, coasts, and seas in that part of the world: but, was a message from his majesty a sufficient authority to the House for the nature and extent of the claims of Spain? An hon. baronet had said, "Look into all the treaties, from the time of Charles 2nd to the treaty of Utrecht, and there the romantic and unwarrantable claims of Spain will appear." Were that statement correct, the consequence must be, that our claims on Spain were unjust and unwarrantable, and insisting on them a direct violation of the faith of treaties; because, wherever the claims of Spain were recorded, the concessions of Great Britain were recorded also. But he rejoiced for his country that it was not so. He was as much a friend to the claims of Spain, sanctioned by the treaty of Utrecht, as count Florida Blanca, or any Spanish minister, because they were founded in justice. These were an exclusive right of territory, navigation, and commerce, on the seas and coasts of Spanish America. The absurd and extravagant claims arose from extending the term Spanish America, to seas and coasts where Spain had no right of occupancy, and in this extension of the term had every one of our preceding disputes about the claims of Spain originated. To what did we object before, but to the indefinite limits of Spanish America? The objection still remained; for the limits of Spanish America were still undefined; not, perhaps, in a way so likely to create disputes as formerly, but still sufficiently vague and uncertain to afford a pretext where there was a previous disposition to quarrel.

On this point, therefore, abstractedly considered, we had gained nothing. We had renounced the right of permanent settlement on the whole extent of South America, and where the admitted right of settlement on the north-west coast commenced was completely undefined. If it was said at Nootka, we did not know that Nootka would be restored. It was, indeed, stipulated by the first article of the convention, that all the buildings and tracts of land of which we had been dispossessed about the month of April 1789, were to be restored. Why, about the month of April was mentioned in so indefinite a way, a learned gentleman had endeavoured to explain, by saying that there was danger in mentioning a particular day, because if any mistake of date should occur, that might give rise to dispute. If capt. Meares's authority was good for any thing, it was surely good for the date at which his ship was taken, and that, by his own account, was on the 13th of May. Why about the month of April was inserted as the date of what happened in May, being on the face of it unaccountable, gave reason to imagine that it was done to answer some purpose, and consequently excited suspicion. By the second article, it was provided, that every thing of which either party had been forcibly dispossessed by the other, subsequent to the month of April, should be restored, or a just compensation made. Now, as there was some ground to believe that we had been dispossessed of Nootka subsequent to that period, how could we be sure that Spain, instead of restoring it, would not offer a compensation? The learned gentleman said it was otherwise agreed upon. If he knew that, he knew more than the House knew. They were allowed no information; they were directed to read the text straight forward as it were with blinkers on their eyes, to prevent them from looking to the right or left. By the third article, we are authorized to navigate the Pacific Ocean and South Seas unmolested, for the purpose of carrying on our fisheries, and to land on the unsettled coasts for the purpose of trading with the natives; but after this pompous recognition of right to naviga-

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tion, fishery, and commerce, comes another article, the sixth, which takes away all right of landing, and erecting even temporary huts for any purpose but that of carrying on the fishery, and amounts to a complete dereliction of all right to settle in any way for the purpose of commerce with the natives.

If he were asked what was the value of the part of South America to which we had thus renounced all claim, he would answer, that he had no means of judging but by the accounts that had been given of it; nor was its intrinsic value of any consequence. It had been described by an hon. magistrate as a bleak and inhospitable region, productive of nothing; and by another hon. gentleman, as containing mines of unknown and inestimable value. These were figurative mines, no doubt; but whether figurative or real, what reason had we to deprive ourselves of any probable or possible advantage that might be drawn from it without an equivalent? Were he, however, to admit, that it was a tract of country from which we were likely to reap no advantage, and in which we should probably never form a settlement, in bestowing a boon, the value to him that received was as much to be considered as the worth to him that gave. It was, perhaps, of little value to us, but it was of great value to Spain. To remove all possibility of our ever forming a settlement to the south of her American colonies, was an object for which she would have been willing to pay a liberal price. Ministers who had been meditating a war against her, might know better than he the horror which she always felt at the idea of her American colonies being visited by any European power. But, independent of the anxious jealousy with which she had always watched those colonies, he knew that the vicinity of an enlightened and free people would be considered by her as an object of antipathy and dread. In renouncing all right to make settlements in South America, we had given to Spain what she considered as inestimable, and had in return been contented with dross.

If the southern whale fishery was of the great importance it was stated to be, in respect to it also, we had made a concession of great moment. He would not dwell on what he had been told, of the most valuable fish being only to be found near the shore, or of their making to it, when wounded, as to a place of shelter, because it was to him only matter of report; but he knew, as a politician, that a restriction from approaching within ten leagues of the coast, was a demarkation of limits not calculated to give security, but to create dispute. His majesty engaged by the fourth article to take the most effectual measures to prevent the fishery from being made a pretext for smuggling, which if he did not, the whole treaty fell to the ground. How was that to be done on a distant coast, which all the vigilance of government could not do on our own? If the words "effectual measures" were to be liberally interpreted the best measures in his power, what measures was it in his power to take, that, under such a limit of navigation, would protect the honest and check the fraudulent navigator? All the skill of the most tried experience, aided by the nicest mathematical instruments that the singular ingenuity of our artists, superior as they were to those of any other age or nation, could furnish, would never enable any man to observe such a line with certainty; and if transgressors were to be subjected to any penalty, which they must necessarily be to prevent transgression, by what rule of proof was it to be ascertained that it had or had not been transgressed, or that one man had gone within it unintentionally and innocently, and another wilfully and fraudulently? How was that protection to the innocent and punishment to the guilty, to which all his majesty's subjects were entitled, to be measured out? If mariners were to be warned, it should be said to plain men, "Pass not the mouth of such a river, sail not beyond such a cape." But it was a strange and impracticable instruction, to direct them not to approach within thirty miles of a shore which they had never seen.

We were allowed to settle to the north of the parts occupied by Spain, and to build temporary huts to the south; and the limits beyond which we were to do this, were to be ascertained by a vague description, not by any certain mark of place. To this, said a learned gentleman, those who complained of the length of the negociation had no right to object, because, to have settled the limits of Spanish occupancy, by any precise line, would have protracted it still farther. It was a singular argument in favour of a negociation, that although it had been long, when concluded, it was still incomplete; and it was

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equally singular, that that which had not been done should be mentioned as a sort of excuse for its length. The learned gentleman had, however, said, that we, not knowing the exact extent of Spanish occupancy, might have been liable to be deceived and defrauded of part of this open territory, had we agreed on a precise limit in the first instance, and concluded his defence, by observing, that the territory was not of much value, and that a few miles more or less was not worth contending for. In this conclusion he was ready to concur. Certainty was of much more value than extent of territory, and therefore he would have thought it good policy to obtain a precise line, in the first instance, on such an account as Spain chose to give of the limits of her occupancy, even if that should have been obtained at the expense of a few leagues of country. Thus we had given up all right to settle, except for temporary purposes, to the south of the Spanish settlements, or in the intervals between them, where they happened to be distant. We had obtained an admission of our right to settle to the north, and even that we had not obtained with clearness. As "Spanish settlements" were the only mark of limits, suppose we were to meet with one farther to the north than we expetced, and a dispute to arise whether it was new or old; it would be some difficulty to send out builders to decide, from the state and condition of the materials, whether the buildings were knew or old, according to the meaning of the treaty. He recollected, before the passing of Mr. Grenville's bill for the trial of contested elections, that lawyers in the House of Commons, both above and below the bar, had argued on election petitions, very little to their own honour or the credit of the profession. According to them, it was not the length of residence in a place that constituted the right of habitation, but the *animus morandi* of the resident: so under the convention, it might come to be asserted that it was not actual occupancy that constituted the settlement, but the *animus morandi* of the settler. It reminded him of a lawyer's will, drawn by himself, with the note in a margin, of a particular clause, "This will afford room for an excellent disquisition in the court of chancery." With equal propriety, and full as much truth, might those who had extolled, the late negociation, for the occasion it had given to show the vigour and promptitude of the national resources, write in the margin of most of the articles, "This will afford an admirable opportunity for a future display of the power and energy of Great Britain." Were the points of dispute to come immediately before liberal and enlightened men, as the ministers of the two countries might always be supposed to be, they would easily agree on the explanation: but it ought to be considered, in making treaties, not so much by whom, as for whom they were made. The makers, except where invasion was intended, would easily understand them. Not so those who were to act upon them, who might often be ignorant or interested men, and when a dispute once arose and an infraction of treaty was committed, every minister felt a laudable pride in protecting the subjects of his own country. An hon. alderman (Curtis) had intimated his resolution of engaging in the fur trade, on the strength of a notable discovery he had made, that the Chinese, when they mean to buy, are indifferent what price they pay. If the accounts given by writers were to be credited, the honourable magistrate had found a market consisting of sixty millions of consumers, all ready to buy, and at any price; and were he next to find out a spot on the American coast particularly favourable for collecting furs, although for such a market any place where furs could be found would be almost as good as another, by what rule could he ascertain that it was not within the limits of the next Spanish settlement, were the Spaniards to assert that it was? On having fixed the precise line, by information perhaps known to the ministers, beyond which the rival collectors of furs were not to pass, although he himself would undoubtedly observe it, how could he provide against its being transgressed by those whom he employed? By what means were disputes about this limit to be settled, should any arise? Hence, in every point of view, in all that respected the limits of navigation, in all that regarded the limits of settlement, if ever there was a convention framed and contrived to perpetuate, instead of preventing disputes this was such a convention.

On the seventh article, directing that in all cases of infraction, complaint shall be made by the officers of either party, before committing any act of violence, he appealed to the recollection of the House, whether it had ever been his practice to argue against the interest of his

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country with foreign powers; but of this article, he was afraid the literal meaning was too good for the practical interpretation of it to be the same. If Spain was to appoint no officers to protect the exclusive trade of her colonies, or if those officers were neither to stop nor detain an interloper, without a formal complaint first made through the Spanish minister to the British court, then, indeed, we had not only secured our right of trading to the unsettled coasts of America, but we had opened the whole trade of the Spanish colonies to all who might choose to avail themselves of the privilege. Of this article he must therefore doubt, from its extreme goodness, as it was impossible to believe that any article could be observed to the extent to which the literal observance of this one would lead.

Thus he had shown that the treaty was a treaty of concessions, and not of acquisitions; that admitting, as he did admit, the propriety of conceding part of our general rights to secure the undisturbed possession of the rest, we had given up what was of infinite value to Spain, and retained what could never be of much value to ourselves; and that what we had retained, was so vague in description, so undefined in limits, and consequently so liable to be again disputed, that we had conceded much more in point of right than we had gained in point of security. Such being his opinion of the convention, considered on its own internal evidence, which was all the means of judging allowed to the House, it would not perhaps, appear in a much more favourable point of view, when considered relatively with respect to the general state of European politics. If it had any secret connexion with foreign politics, it seemed to have been as ineffectual in obtaining its real as its ostensible object. Since the affair of Holland, in 1787, we had no room to boast of any step we had taken in the politics of foreign powers. If we had meant to humble Russia and compel her to agree to a general peace, we had failed. The king of Sweden had been reduced to the necessity of making a separate peace with Russia, not only without our concurrence, but without our knowledge; and thus had we been lowered in the consideration of Europe. We had suffered a new ally to be wrested from us, and alienated the affections of an ancient friend without depriving her of the power to injure us. The measure of 1787 was now said to have been a good measure, but far inferior in all respects to the present convention. Between the two there could be no comparison, had the alliance of Holland been all that was gained by the former. That alliance he considered as of more importance to this country than all the trade of the Spanish colonies; and besides its intrinsic advantages, it led to many great things; but if, by a mistaken application of a good principle, the consequence of it had been to provoke a junction of the northern powers against us, it was perhaps more to be regretted as a misfortune, than extolled as a prosperous event. We had seen nothing lately in the court of Spain that indicated a friendly disposition to this country; and the language of the present debate had not been very conciliating; nor could we turn our eyes to any quarter, where our interference in foreign politics had contributed to our own security. If the convention was neither good in itself, nor the objects more immediately connected with it good, on what ground was it to receive the approbation of the House? It was easy to talk pompously of the prosperity and the greatness of a country, but it was with nations as with individuals, they were not to be judged of by what they said, but by what they did. While we talked of our prosperity, we seemed to be in no haste to enjoy it. In our words was confidence, in our acts was fear.

He had approved of the subsidiary treaty with the Landgrave of Hesse Cassel, because he thought the strength it gave would have afforded an opportunity of reducing part of our standing force at home. In that, however, he had been disappointed; for it had been followed by an increase of that very force of which he expected a reduction. Had he approved of the convention on its merits, as a treaty for adjusting a dispute, he should have felt alarm at the continuance of armaments, after the ostensible purpose for which they were equipped was effected, and have withheld his approbation till better informed. It was curious to see a minister, who called himself a minister of economy, increasing our establishments in every department, and still holding out the delusion of saving and economy. The recovery of the alliance of Holland was not to be attributed to any wisdom on the part of this country, except that of seizing the favourable opportunity, when it obtruded itself on our attention,

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but to a fortunate concurrence of circumstances. The same fortune, aided by the weakness and meliorated policy of France, had placed us in the elevated situation which we now held. Yet with all these advantages, when he looked round for the symptoms of our glory, when he looked to see our alliance respected by ancient friends, and courted by new, he saw it rejected by one power, and renounced by another. When he looked for the security, which so much prosperity might be expected to give, he found that we were adding ten sail of the line to the ordinary establishment of our navy, and 100,000*l.* to the annual expense of our army. These might be the causes, but were not surely the symptoms, of security. Were the situation of which we boasted, our real situation, we should act with as much consistency as the man of pure honour, unsuspected intention, and undoubted valour, who living feared by his enemies, loved by his friends, and respected by his acquaintance, instead of enjoying the comfortable security of a situation so enviable, should be filling his house and encumbering his person with guns, swords, and pistols. It was not true, as had been asserted, that there was any intricacy in the question of right between us and Spain, had it been thought expedient to bring it fairly to discussion. It stood on the general principle by which all European nations were governed in forming settlements, namely, that where the subjects of no power had settled, those of every other had a right to settle. On the whole, as he could not yesterday give a vote of blind confidence, so neither could he now of blind admiration. He should, therefore, vote for the motion of adjournment.

Mr. *Pitt* said, he would reply to the right hon. gentleman's observations as shortly as possible, not doubting but that, after what the House had heard, they would indulge him with a patient hearing. The right hon. gentleman began his speech with reprobating those members who had said that their constituents thought well of the convention; now, to remark upon this had so little to do with the immediate subject of debate, that he was persuaded the right hon. gentleman would not have done so, if he had not imagined, that the declaration from the representatives of London, the county of Devon, the county of York, and other counties, of the general popularity of the measure, had a particular reference to the discussion, and might have more weight with the House than the right hon. gentleman wished. All the members, it was true, were on an equality in that House, and had equally the same right to deliberate and to vote; but, surely, any member delegated by a large and respectable body of constituents, the most capable of knowing precisely the merits of the treaty, because by situation, connexion, and occupation, they were the best able to judge of the probable effect of its operation on the trade, manufactures, and commerce of the country, might become the instrument of delivering their constituents opinion on the subject, without offence to the House. After the right hon. gentleman had gratified himself with this sort of attack on three of his hon. friends, he had proceeded to suggest to the House, that there might possibly exist three grounds of blame imputable to ministers for delaying the convention so long, since as they had it in their power to have procured a better convention in July, they might have obtained all the effect of it by disarming in August, and, therefore, exclusive of any part of the blame which the supposed defectiveness of the measure might deserve, they merited censure rather than thanks. He really was at a loss to know whether the right hon. gentleman alluded to any reports that might have reached him, or whether these imaginary grounds of censure were the coinage of the right hon. gentleman's brain, introduced for the purpose of suggesting suspicions prejudicial to ministers, at the very moment the House were deliberating upon a vote, which, if carried, as it then stood, would certainly be very different from a vote of censure. If it were proved that ministers could, with the same advantage to the country, have procured the convention sooner, he was ready to admit that they were highly to blame; but he should not be a little surprised if the right hon. gentleman could adduce any thing like a shadow of proof in support of any one of his suggestions. The right hon. gentleman had, besides, suggested a farther reason, still more extraordinary, for ministers not having disarmed sooner; and that was, an insinuation that there was something in the state of the Northen politics of Europe, that made the keeping up the armament under pretext of the negociation with Spain a necessary measure. This the right hon. gentleman had affected to say, was information that he had received from

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the respectable magistrate who had seconded the address. Much as he esteemed the worthy alderman, and proud as he was to have seen the address supported in the manner it had been, without meaning the smallest disparagement to his hon. friend, he believed the worthy alderman was as little likely to know the secrets of government as any other member of that House. An hon. member behind the right hon. gentleman had first dropped the hint that the worthy magistrate had said something that would warrant such an inference; and upon that hint the right hon. gentleman had so far improved, as to misrepresent the worthy alderman's words, in order to give the insinuation an air of the greater probability. What the respectable alderman had said, was no more than that, as a considerate man, he had turned his mind from the south-east of America to the north-eastern parts of Europe, where he conceived he saw something that made him think the fleet not having then sailed, was imputable to what struck his mind as the probable cause of its remaining in port. This was the whole of the alderman's observation, and he had given it as an observation of his own, and not as any information coming from authority. In order, however, to make the right hon. gentleman's mind easy as to his suspicion, he could in the most explicit manner assure him, that from the first hour that his majesty's ministers had thought it necessary to arm, till they lately began to disarm, there was not one moment in which the continuance of the military preparations did not appear to them indipensably necessary, and that solely on account of the state of the negociation pending between Great Britain and Spain independent of any consideration of the Northern powers, or any other European event. It would not be expected that he should go into a discussion relative to the Northern powers at that time; his duty did not require it; and what he had said, he trusted would satisfy the right hon. gentleman and the House. Mr. Pitt proceeded to reply to Mr. Fox, on the merits of the convention, and order of the right hon. gentleman's observations. The right hon. gentleman had first noticed the question of reparation, and mentioned the affair of Falkland's island, roundly asserting, that in that case the satisfaction made to this country had been entire, whereas, in the instance of Nootka Sound, the reparation had fallen short of what we had a right to expect, Mr. Pitt contended, that in the case of Falkland's island, the minister had obtained a reparation, but reserved the claim of right unsettled: whereas, in the present case, according to the first article of the convention, the reparation was completed by the restoration of the place, and our claim of right acknowledged and adjusted by the second article of the treaty. He then took notice of Mr. Fox's having said, that Mr. Dundas by not having been in parliament when the affair of Falkland's island was in agitation in 1771, had just escaped supporting the ministry of that day a year and a half; if that were so, it must be admitted by the right hon. gentleman, that he had himself escaped opposing the same ministry just the same period of time.—Having finished that part of Mr. Fox's speech which referred to the reparation, Mr. Pitt proceeded to the next point, namely, that gentleman's argument to prove, that the other articles of the convention were mere concessions and not requisitions. In answer to this Mr. Pitt maintained, that though what this country had gained consisted not of new rights, it certainly did of new advantages. We had before a right to the Southern whale fishery, and a right to navigate and carry on fisheries in the Pacific Ocean, and to trade on the coasts of any part of it north-west of America; but that right not only had not been acknowledged but disputed and resisted; whereas, by the convention, it was secured to us — a circumstance which, though no new right, was a new advantage. Mr. Pitt said, that the rapid and irresistible course of commerce had improved and increased so astonishingly, from the first dawnings of antiquity to the maturity of the moment, that it was not in imagination to trace the degree of improvement that it would, in all human probability, have arrived at, when revolving years shall have filled up the same period of time.—In answer to the stress laid by Mr. Fox on the concessions we had made to Spain, Mr. Pitt contended, that where we had made a concession on our part, a stipulation equally favourable to us had been made by Spain. He refuted the objections that had been started as to the clause in the convention, which obliges us not to navigate on the fishery within the space of ten leagues of any part of the coasts already occupied by Spain, observing, that ten leagues in such extended

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seas was by no means to be compared to the four leagues distance from our coasts, which all ships, not British, are, by our own hovering acts, obliged to observe. After expressing his sense of the partiality and kindness which so many truly respectable gentlemen had that day been pleased to express in his favour, he concluded with submitting the address to the judgment of the House.

The question being put, That the House do now adjourn, the House divided:

TELLERS.

YEAS	Sir J. St. Clair Erskine Mr. Adam	123
NOES	Sir William Young Mr. Rose	247

So it passed in the negative. Then the main question being put, was agreed to.

Debate in the Commons on the Budget.] Dec. 15. The House having resolved itself into a committee of ways and means,

Mr. *Pitt* rose, to submit to the committee a plan of ways and means to defray the expenses of the late armament, with the additional expense also of an increased number of seamen voted for the service of the ensuing year more than were voted for the last. The expense to be provided for, incurred by the late armament was as follows: for the navy 1,505,000*l.*; army 64,000*l.*; ordnance 151,000*l.*, and for provisions to the East and West Indies 41,000*l.*, making in the whole, already voted by the committee of supply 1,821,000*l.*, to which was to be added the vote of credit, expended 1,000,000*l.*, making a total expense for the armament of 2,821,000*l.* From this expenditure, however, 200,000*l.* might be deducted for naval stores on hand, but this he should avoid, wishing to have every expenditure, occasioned in any degree by the armament, stated separately, as he had pledged himself that it should be, and separately provided for. It was upon this principle he should include the expense of the addition of 6000 seamen, which would be, at the usual allowance 312,000*l.* Which, added to the other expense of 2,821,000*l.*, left to be provided for, 3,133,000*l.*

It was to the important object of a provision for this sum that he had to call the attention of the committee, who were to give a decision on the best means of defraying an expenditure of such magnitude, over and above the amount of the usual expenditure of the year. It was impossible for him not to feel that he was making an important proposition: and he was persuaded that no man considered it to be a matter of more regret than he did; for however highly he might estimate the situation and circumstances of the country, he well knew, that no means could be adopted to provide for an expense of three millions, but what must, for a time, occasion a heavy addition to the burthens of the people. Whatever difference of opinion there might exist relative to the incurring of this expense, yet there was no man but must feel, that when it had been incurred, they must nave recourse to some speedy means of providing for its discharge. By this conduct they would manifest to the world the readiness of that House to provide for every national expense: upon these grounds he was sure of receiving the support even of those who condemned the conduct of administration in regard to Spain; and he was justified, by the division of the House on the preceding day, in looking for the support of a majority not alone upon the ground of the necessity of providing for the discharge of the expense, but from a conviction that we had not an option upon the subject; that the honour of the country had called upon us to arm; and that the expense then to be provided for, had been incurred in necessary exertions to maintain and vindicate that honour. There was also another topic of consolation; by circumstances arising from the expenditure, they had been enabled to convince the world of their increasing strength and resources, these considerations ought to inspire and animate them in meeting with manliness and boldness the necessity of the case, and in bearing with fortitude the increase of the public burthen. Mr. Pitt took a comparative view of the national situation at the close of the last war, and at the present time, when the circumstances of the country were singularly fortunate and flourishing: they knew, he said, that the last parliament, though they found the country depressed, and apparently burthened beyond measure, had found the means of laying the grounds of a gradual reduction of the national debt, and had proceeded with success in that plan. Thus, in seven years, they had reinstated the credit of the country, which now, from a perseverance in that system, stood

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as high as ever. The present parliament had not the same difficulties to encounter; for the country was more equal to the burthen. He would not take up the time of gentlemen in stating the rapid increase of our wealth, our strength, and our consequence; for it was acknowledged in every part of Europe. They ought, therefore, to meet the present addition of debt with great energy; they ought not to be contented in merely finding the means to defray the interest and leave the capital a permanent burthen; they were enabled to look farther, and to prove that they had not only an increase of power, but that they had the means of maintaining that power, by a proportionate increase of resources. It was not only their immediate duty to provide for defraying the expense recently incurred, but to take care to prevent their interfering with, or retarding that great object, the payment of the national debt. With this view, he should feel it incumbent on him to bring forward a plan of ways and means, adapted to the occasion, and propose taxes, which, although they were the more heavy in proportion as they were less permanent, would in a short space of time, clear the whole of the debt.

The first resource he should suggest to the committee, was one which, if his proposition were approved, would raise no inconsiderable portion of the sum wanted. This resource was, the balance of the issues of public money for particular purposes, which had accumulated from unpaid dividends in the hands of the bank of England. It was evident, that those who were employed as mere agents, had no right whatever to hold a greater balance in their hands than might be sufficient to answer every demand which could in all probability be made upon them. The bank stood in the situation of an agent to the public, and for their agency they had a considerable allowance, and were not entitled to any indirect profit from a balance to be left in their possession, greater than was sufficient to meet the demands which might be made upon them. This principle was adopted in all the subordinate offices under government, and the bank considered themselves in the same light; there was not, therefore, a pretence that the balance should be appropriated to their purposes. On the clearest principles of prudence, of justice, of good faith, and of economy, the public had a right to avail themselves of this balance, which arose from the public issues. These issues he stated to be eight millions per annum, in quarterly payments; and that the balance remaining from what was unpaid, was, in its present state, available to no one. His object was, to make it available to the public, and to give the creditor equal security, whenever a demand might be made, in the consolidated fund. He stated that, by the yearly accounts of the bank, it appeared that the balance of these unpaid issues had been uniformly increasing from the year 1727 to the making up of the last accounts. In 1727 the balance was 43,000*l.*; in 1774, it had amounted to 292,000*l.* In 1775 it decreased 8000*l.*, being only 284,000*l.* In 1786, it was 314,000*l.*, and on the 5th of July, 1789, when the last amount was made up, it rose to 547,000*l.* From this statement it must appear, that the growing increase had overbalanced demands on arrears; the rational result of which was, that there existed a considerable floating balance more than sufficient for current demands, and the discharge of every probable demand for arrears. The increase had been, from the year 1763, with a single exception, invariable to the present time. Mr. Pitt mentioned the readiness of the bank to communicate every information, and read a letter from the bank, stating their cash accounts, made up to the 12th of October, by which it appeared, that the floating balance was at that time 660,000*l.* There were no just grounds to believe that this would not continue to increase. The public might, with perfect safety to the creditors, avail themselves of this dead balance, subjecting themselves to all demands. It was his intention to propose the taking, for public use, 500,000*l.*, making the consolidated fund answerable; 160,000*l.*, would then be left for the current service of the year, and for the discharge of every old arrear which might be demanded. The security for the whole would prove equal, as the consolidated fund would be the security, by which means every creditor would still be paid on demand, and the only difference be, that the country would have the perpetual loan, without interest, of half a million, which otherwise would remain wholly useless. Mr. Pitt then stated the following precedents, the two first of which he considered as analogous, and the last as a precedent in point. In 1726, by a statute of George 1st, a sum provided for what was termed the bankers'

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debt, was carried to the sinking fund, which was made answerable for all demands. In 1778, by the 18th of the present King, the dividends unclaimed, on what was termed the produce of the two-sevenths, was carried to the aggregate fund, which was made answerable; and by the 12th of George 2nd, the accountant-general of the court of chancery delivered to the sinking fund the balance in his hands, and the sinking fund was made responsible.

His next object was, to propose such temporary taxes, as might, in a short time, produce a discharge of the whole in four years; but he would endeavour to find the means of paying off, independent of the interest on the whole sum, 800,000*l.* of the capital. He was confident that every member would be equally desirous with himself of showing such a proof of British resource. It was his intention to propose the continuance of all the taxes for the second year, and on the entrance into it, to discharge the interest of the remainder of the capital, and an additional 800,000*l.* The sum which he proposed to appropriate from the balance of the unpaid issues of 500,000*l.*, and the two payments of 800,000*l.* would form a discharge of more than half the capital in the two first years; after which part of the taxes might be taken off, and the others left to discharge the remaining two millions, which could be effected in the two subsequent years, making a complete extinction of the capital in four years. He was sure that the committee would see at once that the advantages resulting from this scheme, if it could be effected, would over-balance, comparatively the temporary burthens which would in consequence be sustained. It was his intention to place the taxes which he should propose upon a few substantial articles, which would render them effectual and impartial. The first tax which he should propose would be upon an article of general consumption, sugar, which now paid a duty of 12*s.* 4*d.* per cwt., to which he should propose an addition of 2*s.* 8*d.*, which would raise 241,000*l.*: and on this article he conceived there could be no objection against a temporary tax; indeed, there seemed to be a peculiar propriety in it, since, had a war taken place, the rise on the article would have been greater than the present tax would occasion it to be. The second tax was on spirits, which he considered as not likely to be evaded, when laid on for a short time, and in a slight degree. British spirits were now taxed, in the wash, 6*d.* per gallon; brandy 5*s.* and rum 4*s.*: he proposed an addition of one sixth, which would produce on home spirits, 86,000*l.*; brandy, 87,000*l.*; rum, 67,000*l.*: total on spirits, 240,000*l.* The tax on malt he proposed for the two last years only: an additional duty of 3*d.* per bushel, would produce 122,000*l.* The next he proposed was a tax on assessed taxes, excepting the commutation and land taxes; under this description came the window, house, horse, and all assessed taxes. He proposed an addition of 10 per cent., which would produce 100,000*l.* He proposed also a double tax on gamekeepers and an additional one-third tax on licences. This he took at 25,000*l.*

Here, he said, he should end with those taxes which he proposed as temporary, the total produce of which was 728,000*l.* This, he observed, was not a sufficient sum for the purposes which he had stated; but he had also to propose to the committee a tax which would render it amply sufficient, and leave a residue for other purposes; what he was about now to mention, he intended to propose as a permanent tax. Bills of exchange and receipts were already taxed: but it was notorious that great fraud was practised, and the tax evaded: every one must admit, that there was great merit in the principle of this tax, and therefore it was his intention to render it more general and proportionate; to find means to prevent evasion; and, by not making too many stages, to render the tax on receipts more progressive from the smaller to the higher sums. His plan would go to the prevention of the present frequent re-issuing bills from different bankers, which was a material injury to the tax on bills of exchange: he would not, however, at present, enter upon the detail of this scheme, as its nicety and importance required more time for discussion than it had yet received. He entertained the most sanguine hopes that the addition to the revenue, in consequence of this project, would amount to more than 300,000*l.* per annum. Having thus gone through the ways and means which he conceived the best adapted to meet the expense of the armament, he called upon the zeal and fortitude of the committee to meet them, and if, upon a full consideration,

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they should appear to them as they did to him, he trusted they would adopt them, though, for a short time, they might bear hard upon their constituents. Should the propositions which he had offered be agreed to by the House, and carried into effect, the consolidated fund would gain an addition by the 500,000*l.* from the bank, and the 800,000*l.* of the produce of the first year, in the sum of 1,300,000*l.*, which sum he should move to be issued from it for the service of the year 1791; and as a temporary resource for the remainder, he would propose the issuing of 1,800,000*l.* in exchequer-bills, which issuing he was given to understand would be attended with no inconvenience for the short time during which they were to remain out. Not thinking he had omitted the statement of any thing material, he submitted what he had advanced, in full reliance on the decision of a House of Commons representing a people whose spirit was equal to their resources. He concluded with moving, "That the sum of 1,300,000*l.* be granted from the surplus of the consolidated fund, for the service of the year 1791."

Mr. *S. Thornton* complained of the proposition to take 500,000*l.* of the deposit at the bank for the unpaid dividends as a measure likely to give a stab to public credit, and be attended with most injurious consequences. Adverting to the nature of the accumulation of that deposit, he observed, that it was extremely variable and precarious, and contended, that although it had increased and was increasing, yet as soon as the minister's intention was known, it would diminish. He stated the balances of the bank for several years, by which it appeared, that the average did not amount to a large sum; and he also read the notice of payment of the dividends that was pasted up in various parts of the bank, previous to the days of quarterly payment, and intimated, that if the proposition were persisted in, that sort of notice must be altered, and they must confine it to the payment of so much as the cash issued to them from the exchequer should be equal to.

Mr. *Serjeant* said, that he had been a bank director, but having been for some years out of the list of directors, he was not at present as much master of their affairs as he had been. He had always conceived the bank directors to be the agents of the public, in all concerns of a public nature; sometimes they acted as trustees, but they certainly had no right to interest on the public money. He held it to be indispensably necessary that the public creditor should have his money for his dividend the instant he applied for it. That one matter provided for, he saw no objection to the public having the use of the money left in hand, especially if a floating sum of 150,000*l.* was left to answer any sudden demand. It was customary with individuals, when the money they sent to their private banker amounted to more than was necessary to answer the current service of their trade, to take away the surplus and apply it to other purposes. The bank was a banker to the public, just as a private banker was cash keeper to an individual, and he did not see why the public had not the same right over their own money in the bank, either to leave or take it away at will.

Mr. *Sheridan* said, that he was happy to give the chancellor of the exchequer his sincere praise for the general outline of his plan for the speedy extinction of the three millions necessary to be raised to pay off the expense of the late armament. He assured the right hon. gentleman that he had done no more than justice to that side of the House, in thinking that they would give their support to such a necessary measure; whatever difference of opinion there might be on the subject of that armament, the right hon. gentleman would find but one sentiment in the House on the subject of his proposed plan. He could have wished, however, that the right hon. gentleman had not stated part of his taxes as temporary taxes. He feared the right hon. gentleman had not sufficiently considered the state of the revenue, or he conceived, he never could have persuaded himself that after the taxes were once imposed they could be taken off. For his own part, he was anxious for an examination every year into the state of the public receipt and expenditure. He saw that the present income of the country was 15,800,000*l.*, including malt, land tax, &c., and the last year's expenditure made up to Midsummer last, amounted to seventeen millions. He lamented that one great object of resource was entirely overlooked—an economical attention to our expenditure, and a reduction of our establishments; instead of this, with alliances, and under circumstances the most favourable to reduction, with a neighbouring nation, who, by a

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change in their government, enjoyed the blessings of freedom, more inclined to be our friends than our enemies, and at a time of apparently perfect security, we were year after year increasing our establishments. As to the taxes proposed, the right hon. gentleman's situation was at present so difficult that it was almost unjustifiable to oppose any taxes; but he really wished that before the right hon. gentleman thought of taking the 500,000*l.* from the bank, he would consult the bank directors, because he feared the meddling with any money issued to pay the public creditor, would affect the public credit. With regard to the comparison made by the hon. gentleman who spoke last between the public and the bank, and a private individual and his banker, the hon. gentleman was totally mistaken; a private individual might certainly take his money from his banker, and the reason why he might do so was, because the money was his own; but the money in the bank was, in fact, the property of the public creditor, and no other had a right to meddle with it. Another article which he thought objectionable as an object of farther taxation was, malt.

Mr. *Pitt* said, he did not mean to press a vote for the 500,000*l.* then, but he must be well convinced that there would be an injustice to the public creditor before he abandoned the idea. If it could be proved, that public credit would be affected by it, he should certainly consent to abandon it. He reminded the hon. gentleman that he had given notice, that after the holidays he should move for a select committee to examine into the state of the income and expenditure, with a view to the peace establishment, to compare the same with the report of the committee of 1786, and to state the result to the House.

Mr. *Fox* expressed some doubts as to the malt and sugar taxes, but as to the 500,000*l.* to be taken from the bank, he was ready to come to a vote upon it directly, and reject it *in toto*. Did not that money belong to the public creditor? Had they any right whatever to vary the security? Undoubtedly they had not, and ought, on no account, to meddle with it. The right hon. gentleman had signified his intention of providing a floating balance of 50,000*l.* and 100,000*l.* besides. In his mind, that did not alter the case. It was possible that the whole sum might be demanded on one quarter day; and was the bulk of the public creditors to be put into such a predicament? The trustees of the bank had the public money issued to them for the payment of the dividends to the public creditors, and they had no right to pay it to any person but to the public creditors to whom it was due. He was glad to find the bank directors had not consented to the plan.

Mr. *Church* highly approved the plan of paying off the whole of the three millions in so short a space of time, and as he did not think it right to touch the 500,000*l.* in the bank, he rose to give the right hon. gentleman information, where, without any injury to public credit or any oppression to individuals, he might obtain a considerable sum. What he alluded to was, the trustees of public lands, who had a large sum lying useless in their treasurer's hands. He was himself one of the trustees, but he seldom or ever attended, as no notice was given of their meeting in a regular manner. He was pretty sure the treasurer of that trust had at present 300,000*l.* at least by him, and he thought it a proper object of inquiry.

Mr. *Pitt* said, he had not heard of the fact before, but was extremely obliged to the hon. gentleman for having communicated it, and would take care that proper inquiry should be made concerning it. With regard to the 500,000*l.* in the bank, if it could be proved that the interest of the public creditors was impaired by its being applied to the public use, he should be ready to hold his proposition inadmissible; but if not, no argument could be fairly urged against it. He only wished to be understood as to the grounds on which he meant to argue: if the security of the whole consolidated fund was given for its being forthcoming when called for, the public creditor could not have, he conceived, the smallest right to complain; nor could there be any room to fear its being called for sooner than usual: which, indeed, never could be the case, unless, as it had happened towards the end of the late war, we were unfortunately in a period in which our public credit was in a state of uncertainty. Then our expenses were daily increasing, the burthen of taxes was intolerable, stocks were low, our resources nearly exhausted, and there appeared but little prospect of our recovering.

Mr. *Hussey* said, he had before him a clause which was inserted in the act of parliament for the first life annuities, and

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which had been copied into every succeeding act, on the subject. By the clause it appeared, that no less than the amount of the dividends was obliged to be issued in four quarterly payments every year. If, therefore, less were issued by the right hon. gentleman, a positive act of parliament would be violated.

Mr. *Pitt* admitted that he had originally intended to make smaller issues, but upon examining the statutes he had changed his mind, and meant to take the money by instalments, out of the deposit at the bank; yet he did not propose to deduct a shilling from the issue of a full dividend for every current quarter.

Mr. *Bastard* said, that as there were no creditors to claim the dividends, he did not know to whom they were now due, and therefore he thought the public might avail themselves of the money. He could not say whether it was expedient or wise to pay off the money in so short a time, and lay such heavy taxes on the people as the right hon. gentleman had proposed. We were situated as in the year 1782. He wished, therefore, that some better way than by laying taxes, might be found of paying off the three millions. He mentioned the crown lands which had been under survey for the last three years, and added, that after the holidays he should bring forward a proposition respecting the public accounts. If on the present occasion, he stood alone, he should oppose the taxes, as the people could scarcely bear the burthens under which they already groaned.

Mr. *Powys* thought, as doubts and differences of opinion seemed to prevail as to the 500,000*l*., that it would be more advisable to break the sum moved in the ways and means, and not vote 500,000*l*. at once, which if they did vote it, would commit them to that amount.

Mr. *Pitt* said, that if it should turn out that the plan of taking 500,000*l*. from the bank was not approved, they could issue 500,000*l*. additional temporary exchequer bills.

Mr. *Steele* pointed out two precedents of varying the public creditors bankers, one in 1726, the other in 1778, when sums appointed by acts of parliament and reserved for the payment of public creditors, were applied to the sinking fund in one instance, and to the aggregate fund in the other. Hence he inferred that the principle so much contended for by Mr. Fox had been already directly invaded.

Mr. *Fox* said, that the sums to be applied under the authority of these two statutes were lodged in the exchequer, and there was an essential difference between the exchequer and the bank. The people employed in the former were the servants of the public, which was not the case in the bank.

Mr. *Pulteney* said, it did the House of Commons great honour to be so scrupulous about the public credit. He saw no impropriety in the public having the use of the money remaining unclaimed in the bank, and thought the objections to it should not come from a director of the bank, as they might be considered as parties interested.

Alderman *Watson* said, the directors of the bank had no interest whatever in the money remaining with them; but it would, he feared, affect the public, if any money, once issued to them for the purpose of paying the dividends to the public creditor, were taken out of their hands. As to the bank directors being agents only for the public, and not trustees, he could prove from a number of acts of parliament, that they were in various instances trustees.

The question was at length put, and the several resolutions passed the committee.

Dec. 16. On the motion for bringing up the report of the committee of Ways and Means,

Mr. *Baker* objected to the principle on which the chancellor of the exchequer had proposed to raise the money to pay off the expenses incurred by the late armament. It was contrary to the established parliamentary usage, for the minister to call upon that House to pay the whole of any debt which the exigencies of national affairs had rendered necessary; it had hitherto been deemed sufficient to expect them to provide for the interest. With regard to the 500,000*l*. unclaimed dividends, the right hon. gentleman had not a right to touch a shilling of it. When money once issued from the exchequer was lodged in the bank for specific purposes, that money ought to remain there, until those specific purposes were answered; the money was the property of the public creditor, and we had no more right to meddle with the interest of the public debt than the principal. It would be just as warrantable to seize upon that at once; and yet no man would venture

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to do such a violence to national good faith. There was but one way, in his opinion, by which the public might avail themselves of the amount of the unclaimed dividends, with any appearance of fairness; and that would be, to publish every quarter, or oftner, if thought advisable, lists of the names of those entitled to dividends, together with the sums to which they were severally entitled; to insert such lists in the Gazette, and make them as public as possible, adding a declaration, that if the persons entitled to such dividends did not claim their money by a certain distant day, in that case the money would be carried back to the exchequer for the public use; taking care, at the same time, to make an adequate fund responsible for its being forthcoming when claimed. That plan of proceeding would be infinitely more fair than the mode which the right hon. gentleman was about to pursue. He did not like appealing to the bank directors in such a case, and acting on their silent acquiescence. The proprietors ought to have been consulted. With regard to the taxes which made up the budget, there was one of them which he thought highly objectionable, and that was malt. The right hon. gentleman had said, that malt was a common object of taxation. He was sorry to find it had been made so of late years; formerly, it was considered as that species of taxation which was the constant object of parliamentary jealousy, and thence it was, that till of very late years malt was the only annual tax besides the land tax. Of late, however, we had broken through the rule, and there were two other malt tax bills. Mr. Baker pointed out the bad consequences of taxing so high an article which was a necessary of life, and especially to the labouring order of the people. He wished the right hon. gentleman had omitted the article of malt, and had laid what he meant to raise on it, upon spirits; since it would deprive the honest hard-working people of their wholesome beverage, and drive them to other liquors, most probably, to spirits, which were so detrimental to the human constitution. The health of the poorer sort ought to be particularly the object of the attention of that House. Although there was magnanimity in the idea of paying off a capital of three millions and more, yet before the right hon. gentleman had come forward with any such proposition, he ought to have laid a state of the national receipt and expenditure before the House, and let them see how far their situation would warrant such a measure. He was aware that stocks had risen lately, and that the funds wore a flattering appearance; but, the reason was, that there were two millions of unfunded nany debt floating; while that remained, the funds would naturally rise, but when the navy debt came to be funded, the delusion would be dispelled, and the stocks would sink.

Mr. *Duncombe* commended the plan of paying off the whole of the expenses of the late armament in four years as a spirited undertaking, and observed that by so doing the right hon. gentleman had realized what others had often ridiculed as a visionary and impracticable speculation. With regard to the 500,000*l.* of unclaimed dividends remaining in the bank, he approved of the plan. If such unanswerable security as the consolidated fund was given to the public creditor, he saw no substantial ground of complaint. The intended tax on malt he must object to as impolitic; barley already paid so much to the revenue, that it could not well bear more; to overload it with duty would be to check its cultivation, and materially affect the agriculture of the kingdom.

Sir *William Milner* said, he highly approved of the plan of paying off the whole of the expenses of the late armament in four years, but the intended tax on malt he disapproved, since it would not only distress the poorer classes, but affect their morals and injure their families. At present, many of them brewed their own beer, and after their day's labour comforted themselves with some of that wholesome beverage at night. These men would, many of them, be now driven to the alehouse, where even if they drank two-pennyworth of ale, the expense would be too great; but, in all probability, they would drink a shilling's worth and more, and at once get intoxicated while their families wanted necessaries at home. Sir William having, towards the conclusion of his speech, adverted to the late parliament, and declared that he had been unrepresented for eighteen months, but that at last that parliament became ashamed of their proceedings, he was called to order from the chair; the Speaker informing him that it was not orderly to say that any parliament was ashamed of its proceedings.

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Mr. *Fox* said, he did not recollect any rule of order which precisely defined what sort of abuse of a former parliament might or might not be made. He had heard various parliaments abused in that House. The parliament of 1741, perhaps the best parliament in this century, he had heard abused. He had heard the long parliament in Charles 2nd's time abused, and with much better reason; but he did not know that there was any rule of order upon the point.

The *Speaker* said, it always gave him pain to interrupt any hon. gentleman, but he had thought it his duty to do so in the present instance, as he conceived that no member could, with due respect to order, say that any parliament was ashamed of its proceedings, unless by some resolution or act of its own, it had declared as much.

Mr. *Bernard* defended the proposal of taking 500,000*l.* of the unclaimed dividends from the bank, and making the consolidated fund responsible to the public creditor. He contended that no point could be more clear, than that the money deposited by the public in the bank to pay the dividends, was the property of the public till claimed by the public creditor, and that the public might avail itself of it, when it thought proper.

Mr. *Hussey* was afraid that the plan of taking 500,000*l.* of the unclaimed dividends would give a stab to public credit. However ably it might be defended by argument in that House, the public creditor would not understand what was meant, and would take alarm. In that case ten times more mischief would be done than could be compensated for by the amount and application of the sum taken. He referred to the life annuity act, and declared, that it was enacted that the money should be issued from the exchequer and lodged in the bank, the public creditor considered that as an additional security. There was something solid and substantial in the bank of England which inspired every public creditor with a perfect confidence that his money was safe in their hands. He could not bring himself to approve the idea of taking any part of the unclaimed dividends. There was one way in which he thought the right hon. gentleman might avail the public, and that was, when 500,000*l.* exchequer bills were issued, he saw no reason why the public should not have the profit. At present the bank had it; this would amount to 20,000*l.* a-year, and when next the right hon. gentleman had a loan to make, he thought he might fairly make the advantage given to the bank a consideration in his bargain, since the bank was paid liberally for the business it did for the public. He was himself a proprietor of the bank, but he did not wish to take 20,000*l.* a-year out of the pocket of the public, and put it into the purse of the bank proprietors.

Mr. *Pitt* observed, with regard to the 500,000*l.* of unclaimed dividends, that as it was in no shape before the House, and as it had already been agreed that a separate day should be taken for its discussion, it was his wish that no mention should be made of it on that day, since it was a matter of serious importance.

After some further conversation, the report was brought up, and the resolutions agreed to by the House.

Debate in the Commons on the Abatement of an Impeachment by a Dissolution of Parliament.] Dec. 17. The order of the day having been read, "That the House resolve itself into a committee of the whole House, to take into consideration the state of the impeachment of Warren Hastings, esq." Mr. Burke having premised that he saw no reason whatever for resisting a motion for the Speaker's leaving the chair, moved it accordingly.

Mr. *Bastard* said, that as, upon the present occasion, he could not accede to the opinion of the right hon. gentleman, he felt it his duty to oppose the motion. The House had been given to understand that this motion was directed to two purposes; first, to declare the right of the House to proceed in the impeachment; secondly, to decide whether they were willing to exercise the right, and persevere in the prosecution. His reason for opposing the Speaker's leaving the chair was, that he had rather meet the question in the first instance, than give an inch of ground up to a matter which he did not approve. He did not conceive that a dissolution of the parliament affected the right of the commons of England to persist in the impeachment; he could not imagine, therefore, why that question was called for, or thought necessary to be agitated. If the House should deem it necessary to put that abstract question on their journals, he hoped they would persevere in it to the last. In case the House of Lords should deny that

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right, they might appeal to the people. If he carried his motion, he meant afterwards to move that Mr. Hastings's trial be put off till that day three months. The present parliament being a new one, would do well to profit by the proceedings of the former: they would do well to pause before they consented to adopt an impeachment, to which, but from report, they must be utter strangers. Let them look into the journals, and they would find falsehoods in the resolutions of the last parliament; they would find the resolutions of one day directly contradicting the resolutions of another. First, when it was resolved to impeach Mr. Hastings, India had been represented as a desert, governed upon a corrupt and ruinous system, which must necessarily soon bring on its destruction. Afterwards, when another object was in view, they had resolved that India was in a most flourishing state. He acknowledged that he had been one of those who voted for the impeachment of Mr. Hastings, but he had given his vote under the expectation that Mr. Hastings's system of government was to be done away, and a very different system established in its stead. But had that been the case? Most certainly not. The board of control, he found, sanctioned the old system, and confirmed all Mr. Hastings's measures. On that account, and because he could not reconcile such contradictions, he retracted his opinion, and repented that he had been deceived into supporting the impeachment. He could not look at the impeachment, and forget certain constitutional principles which were implanted in his breast. He recollected, that one article of the great charter of our freedom was, that no Englishman should have excessive fines imposed on him, nor should any man undergo cruel and unheard-of punishment, be his crime ever so great; and a great point was, that every man who was accused, should have the most speedy means afforded him of acquittal or condemnation. These principles had been all grossly violated in the case of Mr. Hastings. He had been, for three years together, exposed to the eyes of his fellow-subjects as the greatest villain in the world. Comparing the length of time that it would take to go through the remainder of the articles, it would be one-and-twenty years before Mr. Hastings could be put upon his defence, and allowing the same time as his accusers had taken, forty-two years would elapse before they would have reached that period; and then there would be a reply from the managers of a few years more, before the Lords could conclude the whole and give judgment. Let gentlemen consider what must be the feelings of a man who found himself accused and held up, by so high an authority as that House, to public execration as the greatest villain on earth, without a prospect of an opportunity of clearing himself, for where was the prospect of his having that opportunity, conducted as the trial had been? If, therefore, the impeachment were continued, it could not but operate as a most cruel and unheard-of torture. Mr. Bastard complained of the manner in which the charges had been prepared and carried up to the bar of the House of Lords; voted one day, brought in the next, adopted almost without reading, and hurried away to the Lords. Several of them were actually never read to the House. Could, then, a new parliament take upon themselves to go on with the impeachment? Should they reject the impeachment, Mr. Hastings would, in consequence, have the opposition of one House of Commons against the conduct of the other, together with the approbation of his employers, and of the former House of Commons, as far as their resolutions went. When the power of the House, instead of being the protector of innocence, was made the terror of the accused, —away with such a system of justice; he would have nothing to do with it! The court had undergone a change of no less than forty by death. Mr. Bastard mentioned the advantage the prosecutors had in bringing forward their witnesses, whereas, by the course of nature, many of them might drop off before Mr. Hastings could be put on his defence. It had been said, that the impeachment ought to be proceeded in, for the honour of the last House of Commons. Mr. Bastard said, he thought but little of their honour who had dealt in such gross contradictions. The object of all punishment was the prevention of crimes; but the dropping of the impeachment could not be attended with any ill-consequences; because another mode of judicature having been instituted, what had happened could not happen again. He complained of the impropriety of lending the weight of that House to crush an individual; there were those who wished

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the trial at an end who would vote for the question, if mixed up in the privileges of the House. They had no right, therefore, to take Mr. Hastings to their aid. Impeachments had received a deep wound, which required the balm of moderation to be poured in to heal it. He should, therefore, oppose the Speaker's leaving the chair.

Colonel *Macleod* complained that Mr. Burke had artfully and insidiously avoided bringing forward any arguments for his motion, and had thereby left the opposition to it to be made by anticipation. He considered the present as an attempt to make use of the privileges of the House to destroy Mr. Hastings. The colonel agreed that the dissolution of the last parliament did not abate the impeachment: to give up the rights of that House would be to put it in the power of a bad monarch to impede the course of justice, and put a period to the trial of any great state culprit; we certainly had not that to dread from our mild sovereign; but a Charles 1st or a James 2nd might reign hereafter, and therefore they could not be too jealous of their rights and privileges. But, he asked, was the House of Commons under the necessity of seizing on a poor individual to assist them in asserting their privileges? The House might, without that, go into a committee after the impeachment was disposed of, and hold a conference with the Lords on the question of right; at any rate, justice, honour, and humanity forbad the proceedings into which they wished to enter. If they said they were bound by the resolutions of the last parliament, they voted themselves the long parliament in effect. Could they not suppose Mr. Hastings to have died that evening of an apoplexy? Why not take up their right separately from any connexion? They ought not to follow the advice of the right hon. gentleman; Edmund Burke was constitutionally dead though alive; Edmund Burke died with the last parliament; and for a new House of Commons to think they were bound to follow the path that right hon. gentleman had taught the last parliament to tread, would be just as absurd, as if he were to meet a young man in the street, who were to say, "Sir, your father knocked my father down, and run him through the body. Pray, sir, knock me down, and run me through the body, that I may be entitled to my revenge." He had had the honour to serve in India during the late very active war; and there was no part of India which he had not visited: he was, therefore, a competent evidence on the most material parts of the articles voted by the late House of Commons; and he assured the House, upon the word of a soldier and a gentleman, that he never saw Mr. Hastings till, to his surprise, he saw him appear as a culprit in Westminster-hall; that he never had corresponded with him in India; that he never, directly or indirectly, received the slightest favour from him; but justice and truth demanded from him that testimony which he would deliver on his conscience, and upon his honour. The colonel then said, that he had commanded an army in the late war on the Malabar coast; that since the peace he had held many and long conversations with Tippoo Sultan on the characters of the different persons who had filled high stations in India; that he had often sat up all night with him in his tent, and been treated by him with the greatest familiarity; that this prince, whose abilities and penetration no man could dispute, had invariably spoken of Mr. Hastings in the warmest terms of respect, though he described him as the greatest enemy he had in the world, having, by the assistance he afforded to the Carnatic and Bombay, during the war, enabled those presidencies to stop the progress of his arms; that the same sentiments were entertained by the principal men of his court; that he had been all through the Carnatic, on his way to Bengal, and could assure the House that every person he conversed with gave him the same character of Mr. Hastings; that he arrived in Bengal about three months after Mr. Hastings had left it, and travelled through that kingdom, Bahar and Benares; that he had been much in Oude, at the court of Delhi, and with Madajee Scindia in the Mahratta country, and he declared, in the most solemn manner, that he never conversed with any man, of any rank, throughout these extensive kingdoms, who did not speak of Mr. Hastings in the warmest terms of esteem and regard. He implored the House to attend to what he should now state, and to give him credit for his sincerity; for he could not have any interest in misleading them. He did then solemnly assure them, that Bengal, Bahar, and Benares, were, beyond all comparison, the finest and most flourishing countries in India, in regard to population, agriculture, and the

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happiness and security of the people; that the next most flourishing country was Oude, where Mr. Hastings had an influence; and that the countries under the native princes, Mahomedans or Hindoos, were in a very inferior degree of prosperity. All the arrangements were those of Mr. Hastings: whatever he saw was the effect of his measures, and he affirmed, that the same systems had been continued by sir John Macpherson and lord Cornwallis; the former was his most intimate friend, and to the latter he was under infinite obligations. He would not say, that the country under them was not in a progressive state of improvement. Undoubtedly it was; but it did not detract from their great merit to say, that they followed precisely the plans of Mr. Hastings. How, then, was he surprised to read, on his return to England, articles presented by the late House of Commons, attacking the whole system of Mr. Hastings, foreign and domestic, and stating that the countries under his government were desolated and ruined! The fallacy and falsehood of these assertions he well knew, and if that House would believe him upon his honour, as a soldier and a gentleman, they could not adopt what the last parliament had voted. Mr. Hastings was the saviour of India, during the late war, while loss of empire and misfortune had attended Great Britain in other parts of the world.

Mr. *Jones* said, that he entertained a very different opinion from the two hon. gentlemen. With regard to Mr. Hastings, he did not know the man, he only knew him to be a state delinquent, and he hoped that the justice of his country would soon overtake him. Instead of employing his little capital in building houses, planting shrubberies, laying out gardens in the most extravagant manner, and forming a scene of Asiatic luxury and splendour in the heart of an English country, it would have better become him to consider himself as a culprit, and to have demeaned himself accordingly. The tender mercies of Mr. Hastings's friends were cruelty and severity. By putting a stop to the impeachment, as they wished to do, they would leave him half accused, half innocent, half guilty. The right of impeachment was the safeguard of the people; that House ought to support the rights of the Commons of England, and not suffer them to be done away by a side wind, or blasted by a dissolution.

Mr. *Pitt* rose to say a few words, not to the merits of the arguments of the hon. gentleman, but to the order of their proceedings. A motion had been made for the Speaker to leave the chair. That had been resisted by two hon. gentlemen who wished to put an end to the trial, though they both allowed the right of the House to go on with the impeachment, and contended that there could be no reason to doubt it. Whereas the very thing the hon. gentleman proposed would throw a doubt upon it, and yet would not effectually put an end to the trial. There could not be two more distinct questions than they were; the one, the question of right, the other the question of discretion; or whether the right having been first resolved, the House were willing to carry it into execution and effect? One of the hon. gentlemen had begged that it might not be considered as a party question. So did he. The subject related not to any party consideration, neither had it any thing to do with Mr. Hastings, his merits, or his crimes; he begged, therefore, that it might not be made a personal question by that gentleman's friends and advocates. It related to the permanent principles of the constitution, and ought to take the lead of every other consideration. The two hon. gentlemen had expressed their wishes that the Speaker might not leave the chair, and were desirous of putting an end to the impeachment? What effect would that have on the constitutional question? Could they conceal from posterity the reasons for such a procedure? What sort of an appearance would this affair have, if they carried the matter as they desired? One third would vote for it, because they thought they had right, another third because they thought they had no right, and the other third because they did not wish the trial to proceed. Thus would it be a complicated question; and though one of the hon. gentlemen argued against an abstract question, he would in fact, have taken the only means of making the question of right, which he proposed to put after setting aside the impeachment, purely abstract. Some gentlemen wished to put an end to the impeachment as cruel to Mr. Hastings; yet Mr. Hastings's hardships were no reasons against the Speaker's leaving the chair; but rather for it. If the Speaker did not leave the chair, what sort of an acquittal would that be, compared to the

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Speaker's leaving the chair? In which case, should the question of discretion be negatived, Mr. Hastings would then stand acquitted, by the impeachment dropping, after they had been allowed an opportunity of inquiring into the reasons for proceeding or not. If the gentlemen were serious, and thought they could obtain a majority of votes, they ought to do so upon a deliberate inquiry, which could only be gone into by suffering the Speaker to leave the chair, and not by blending two distinct questions, get off in a manner which would leave Mr. Hastings neither guilty nor innocent.

Lord *John Russell* thought that if the impeachment were not suffered to proceed, there would be danger to the rights and privileges of parliament, and to the constitution itself.

Sir *William Young* said, he rose to oppose the Speaker's leaving the chair, and for reasons that directly applied to that motion. He would argue the question on clear constitutional principles. The first consideration attached on the most important privilege of that House; the privilege which its Speaker asserted rather than prayed for in the address to the throne, for freedom of speech, for the essence of its liberties, and therein of the liberties of the Commons of England, all depending on the uncontrolled and uncontrollable deliberative capacity of their representative body. This new parliament possesses that essential right in its full extent; let it take care how it surrenders it up, and loses its spirit and force under passive acceptation of the mere vote of a former parliament, and shackles itself by preliminary proceedings in the exercise of its most necessary function. The avowed purpose of quitting the chair was for instituting proceedings of that sort. He should therefore oppose the Speaker's leaving the chair. The chancellor of the exchequer had classed the reasons and opinions of members in that House, and then attempted to show, that none applied to the present question, and that the House resolving itself into a committee was of course, where each might meet the question proposed on its proper and specific grounds. Sir William stated the chancellor of the exchequer to have concluded on partial observation, whilst he omitted an extensive class of men, of those who objected to a continuance of the process against Mr. Hastings, and who farther objected against the agitating of any declaratory resolution on the abstract question of its continuance or not. He would not give an opinion of whether the late impeachment abated by a dissolution of parliament; but this he knew, that such an abstract question ought not to be agitated in the first instance or without the most self-evident necessity. Abstract declaratory resolutions were always dangerous, inasmuch as decisions and statements in the journals of a future House of Commons might appear in contradistinction either of matter or terms, to what a former parliament had laid down as a sacred and fundamental principle, in which case the very solidity and texture of the basis of our constitution is weakened. In the present instance, there were yet other objections, and of such moment, as to require that the House should pause before it even put itself at issue in the question. He alluded not merely to the Lords' House. Even with respect to them, he should deplore the necessity of a contest; however, as a member of the Commons, he should never shrink from such contest, when the necessity of a strong and decisive part appeared; that necessity did not appear; for, possibly, the new House of Commons may not vote to continue the process against Mr. Hastings. There was a body whom this declaratory resolution might yet farther embroil us with, and with whom he did fear to cope on a question of the law of the land; for we could have no privilege bearing on a process of justice but such as was the law of the land. It was matter of notoriety, that professional men were generally of an opinion, that a dissolution of parliament did abate a process by impeachment. He feared then needlessly to push the Lords to a resort to the judges; for as a friend to the public justice of the kingdom, to the good order of the community, and to a respect of law, which was the best security of liberty, he did fear to commit the House of Commons with the judges of the land on a question of law. He did fear the operation of declaring that those who are going shortly forth to charge the grand juries of England, and who should impress authority on their function by that of character, are fallible in office, and are not competent to a decision of the law of the land. To avoid the agitating of a question of such consequence, he should therefore oppose the Speaker's leaving

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the chair. — Declaring an opinion, that the process against Warren Hastings should not contiue for reasons which a study of the principles of our constitution suggested, unmixed with personal considerations, or even a retrospect to the proceedings of the last parliament, he could not consistently vote for going into a committee to consider the state of the impeachment. He put the merits and the demerits of Mr. Hastings out of the question. He put the case of his delinquency, or his claims, or his sufferance, out of the question. He founded his opposition to a continuance of the impeachment, on the notoriety that an Englishman had been on his trial for more than three years; this was in the teeth of every principle of our constitution; it was in the teeth of the spirit of every statute, and the old common law on which are founded the liberties of the subject; this was in the teeth of the principle of the Habeas Corpus act, which was a mere emanation from the *nulli deferemus justitiam* of the great charter of England. It was in the teeth of every principle of juries, who should have identity of mind as well as of person, and should not go forth into the world, and be subject to impressions extraneous to the process itself. He was ready to allow that in this respect somewhat more latitude belonged of necessity to the judicature of the Lords, and in cases of impeachment; but could no line be drawn? Must the happy principle on which the meanest subjects rest secured, be so far outraged in the operations of any judicature as by a trial of three years? — a trial, during which, even personal identity of the jury is lost, and even the accusers are by the royal prerogative made the judges. To reprobate so flagrant an example, and without one consideration of one man, or of any set of men, he was ready to stop farther process by a direct vote; and which, founded on the notoriety of an Englishman being on his trial for three years, did not require the Speaker's leaving the chair for the purpose of inquiry. As to the principle of continuity of a process by impeachment, notwithstanding a dissolution of parliament, he was a friend to it; but instead of now agitating it under all circumstances by a declaratory resolution, he was for ever setting it at rest, by an act of parliament for the better regulating impeachments, in which all the present evils might be provided against, and the constitutional principle of continuity be made the law of the land.

Mr. *Pitt* said, that those gentlemen who were disinclined to proceed with the impeachment, might conscientiously discharge what they thought their duty by moving, whenever they pleased, in the committee, that the chairman do leave the chair.

Mr. *Fox* said, he should not speak a word then in favour of the prosecution, because if it were the most unjust possible, and the conduct of the managers had been the most culpable, that was no reason against the Speaker's leaving the chair; neither should he advert to the question whether the impeachment abated, for that might be considered in the committee: whether the two questions were abstract propositions was a matter as little to the real purpose as any other indifferent thing, since that circumstance furnished no argument against the motion made by his right hon. friend. If it should be the general opinion that the impeachment did abate, or that there had been any culpable proceeding on the trial, that certainly might be considered in the committee.

The *Solicitor General* (sir John Scott) said, that he should finally give his vote as the law of the land, and the privileges of that House should require. He thought that the House should act with great deliberation when they were settling what their privileges were; as the best way to secure their privileges was not by dint of power, to assert what they might deem privileges against the law of the land.

The motion for the Speaker's leaving the chair was carried, and the House having resolved itself into a committee, sir Peter Burrell in the chair,

Mr. *Burke* rose and observed, that being now in a proper situation to consider the important question to be decided, should any question arise, he would open to the committee the resolution which he intended to move. He had been described by an hon. gentleman, who opposed going into this committee, as politically dead, as existing no longer in fact, but in name, as the *cinis et umbra* of what he once was, and being now reduced to *ens rationis*, a mere metaphysical abstraction of a man, it was very logically inferred, that an abstract member of parliament could move only an abstract proposition. He begged leave, however, to assure the committee, that in this meta-

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physical revival after his political death, he should submit to their consideration, not an abstract, but a practical proposition. He was laid under considerable difficulty in another respect by the gentlemen who opposed going into the committee. If he spoke, he was told that he spoke only to torment the House. If he sat silent, he was told that his silence was insidious:—

——"The times have been [die
That, when the brains were out, the man would
And there an end: but now they rise again,
With twenty mortal murders on their crowns,
And push us from our stools."

So he, politically dead as he was, walked abroad in his metaphysical capacity, to torment the House, to frighten honest gentlemen from their seats by his talking, or entrap them hy his silence. Both his political and his physical life were now nearly at an end; but while either of them remained, he pledged himself to persevere for the honour of the House of Commons in the arduous task he had undertaken. The House of Commons, by adopting the impeachment, had vindicated his honour, had screened him from the imputation of being a false accuser, and made it their own. For their honour, for the dignity and consistency of their proceedings, he was bound in gratitude to exert the utmost efforts of his poor abilities to bring it to a fair judicial conclusion. The attempt that had been just made to get rid of the whole proceeding, was supported by no argument, at least by no argument that was new. In this particular case it happened, that arguments, like men, were endowed with the quality of reviving after death. Arguments that had been routed, discomfited; not only driven off the field with ignominy and contempt, but disbanded by those who arrayed them for battle, as unworthy and unfit to serve, were again drawn out and marshalled, as if they had never been exposed to defeat and disgrace. The arguments adduced by the hon. gentleman who began the opposition, had been not only routed and discomfited in the late parliament, but an hon. major (Scott) had been punished for enlisting them—he had received the censure of the House, and that he who had tasted of it must call a heavy punishment. The hon. gentleman had said, that although he himself had voted for the impeachment originally, yet many of the articles were passed without due consideration; and, with all the zeal of a new convert he contended, for that reason, against the whole. He, no doubt, had made such inquiry, and received such information, as enabled him now to form a better judgment; but he ought to have some mercy on other gentlemen who had also voted for the impeachment, and who, not having had access to that information which convinced him that they had voted in error, still adhered to their former opinion. The present House of Commons, it was said, was not bound to adopt the resolutions of the last. Undoubtedly it was not, if those resolutions should appear to be founded in injustice, or adopted without due consideration. But let the House beware of rejecting, without examination or inquiry, what the late House of Commons had adopted on more painful inquiry, and more laborious investigation, than perhaps any subject that had ever come under the consideration of parliament. An hon. colonel (Macleod), to whose professional reputation he was no stranger, had introduced a story in the style of the Arabian Nights entertainments, a sort of modern midnight conversation, in which Tippoo Saib had borne honourable testimony to the abilities and virtues of Mr. Hastings. Tippoo Saib was a prince of so much virtue himself—of justice so conspicuous, of humanity so exemplary—that to question the authority of his testimony, might be, perhaps, to question what all the world was so well convinced of, that he should be asked—"Solem quis dicere falsum audeat." But still he might be permitted to ask what effect the testimony of this virtuous prince, of this Marcus Aurelius of the East, to the abilities of Mr. Hastings, could have on a charge of taking money, which he was expressly forbid to take, of lending it to the company as their money, and of taking bonds for it, payable to himself? Whatever might be its value, he should only consider it as a reason for going on with the trial, that there might be an opportunity of bringing the evidence into court.

The extreme length to which the trial was likely to extend, was alleged as a reason for deserting it altogether. On this point he could inform those who wanted information, that it was not the intention of the managers to protract the trial, and that had they been permitted, as they intimated last session, to go through the article of Contracts, they

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meant to call on Mr. Hastings for his defence. The friends of Mr. Hastings never complained of the length of the trial, till the defendant was on the eve of being pressed to judgment, and then they pretended to think that the retraction of one House of Commons, or rather the base and scandalous dereliction of what another House of Commons had solemnly done, would be a complete acquittal—as if a collusion between the party and the prosecutor could restore the reputation of the one, or not stain the honour of the other. As to any implied charge against the managers of the impeachment, he would not reply to it till specifically brought forward. They were now in no collective state to make their defence, and it was rather ungenerous to assail them in their unprotected situation. If delay was imputable to any person, it was to Mr. Hastings himself. His right hon. friend (Mr. Fox) to whose transcendent abilities the merit of the whole conduct of the trial might be almost exclusively ascribed, after opening the first charge, had proposed to decide upon them article by article, so that the party accused would have had an opportunity of exculpating himself from the weight of each charge, as the evidence upon it was concluded, instead of being oppressed for such a length of time as he now complained of, by the accumulated weight of several. To this, however, Mr. Hastings would not agree: he was not then so jealous of his honour, and chose to drain the cup of crimination to the dregs, before he applied the exculpatory antidote.

Mr. Burke said, it was not his intention to move any abstract resolution, much less a resolution implicating the propriety of the accusation with the competency of the accuser. He never had loved, and never should love an abstract question; being of opinion that much of the vice of the present age was owing to an abstract way of thinking. In the committee, which he considered as a committee of privileges, he meant to move a proposition applicable to the particular case. In this he had been guided, not by the mootings of lawyers, not by the reveries of pamphlets, not by the conversation of coffee-houses, but by the opinions of minds that were fitter to direct than to co-operate with such minds as his. The terms of the proposition would show its modesty. However jealous or irritable he might be supposed, he had betrayed no unseasonable jealousy on this occasion. The lords had adjourned over the day appointed for proceeding on the trial the day of the last adjournment. Of this he had taken no notice. They had met and adjourned again and again, and again, and no message had been sent to the Commons on the subject.

> "To-morrow, and to-morrow, and to-morrow,
> Creeps in this petty pace from day to day,
> To the last syllable of recorded time,
> And all our yesterdays have lighted fools
> The way to dusty death"—

He felt their silence more alarming than any act would have been. Their silence might be owing to several reasons. They might think, without entertaining a doubt of the right to proceed, that the Commons would abandon the impeachment. They might think that the Commons, if they meant to proceed, ought to move first in it, as they did in the case of lord Danby; and last in order, as in will to mention, they might possibly entertain the shocking and nefarious proposition, that the Commons having pledged their constituents, as well as themselves, as they always did when they carried up an impeachment in the name of themselves and of all the Commons of England, meant to submit the important privilege of superintending the exercise of the executive and judicial power of inquiring into abuses, and bringing delinquents to punishment, to the will of the minister or the pleasure of the Crown. This proposition he would not believe that any member of the House of Commons could entertain, till he heard it expressly avowed. His intention, therefore, was not to move any thing that implied a doubt, but a plain assertion of their privileges, as handed down to them by their predecessors, through an uninterrupted succession of five hundred years, and to be as faithfully transmitted to future generations. He would not broach the whole line of precedents in support of this privilege, because he would not anticipate the possibility of its being doubted. In all the convulsions of our government, in all the struggles, contests, and incidental or progressive changes of the functions and powers of the House of Commons, this had remained immutable—that an impeachment was never to be defeated by collusion with a minister, or by the power of the Crown. That an impeachment abated by a dissolution of parliament, was not to be found in plain, express terms on the journals of the House

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of Lords, on the journals of the House of Commons, nor in the minutes of the conferences between the two Houses. It was as little to be found in any book of authority, or in any good report of law cases. Till the proposition could be drawn from such authentic sources as these, he would not condescend to argue against it. If the House of Commons possessed any privileges that were not held for their own individual accommodation, as that of franking their letters, or the exemption from arrest, but in trust for their constituents, as the right of originating money bills, and of prosecuting state criminals, they could not surrender or concede them, without a breach of faith. They could no more surrender the law and privilege of parliament, when it was in their favour, than they could abrogate the law when it was against them. Nothing but the solemn act of the whole legislature could do this. The danger of incurring a dispute with the lords had been suggested as a thing carefully to be avoided. He would not court a dispute with the lords; he would as little fear one. The man who once surrendered any one of his rights, merely because to defend it might involve him in a dispute, would soon have no rights left to defend. Were the Commons to surrender theirs, because they dreaded a dispute with the Lords, they would have no rights but what the lords were pleased to allow them. If a dispute with the lords must be the consequence, he referred them to the practice of their ancestors on such occasions—"Moribus antiquis stat res Romana." In such disputes they had never been foiled, when commenced on proper grounds.

But the House of Lords, it was said, was a supreme court of justice, and therefore the sole judge of their own proceedings. Had the Commons no control over the House of Lords in their judicial capacity? He was ready to pronounce that they had. The House of Commons had no judicial, no executive function: but, as the seeming paradoxes in our constitution would appear on examination to be founded in the deepest wisdom, from this apparent want of function in the House of Commons, from this seeming want of power, it had all power. It was the watch, the inquisitor, the purifier of every judicial and executive function; and from its apparent impotence, derived its greatest strength and beauty. If it gave up this, it gave up all, and, like salt that had lost its savour, was good for nothing. Were the Lords to resolve, in their judicial capacity, that a writ of error abates by a prorogation or dissolution of parliament, would the House of Commons hesitate a moment to interfere, as they had interferred in the case of Skinner and the East India company, when the lords attempted to usurp original jurisdiction? That interference gave rise to a dispute, but the issue was as happy, as the interference was proper, and instead of fomenting discord between the two Houses, it had been the means of promoting their future harmony.

Still, however, there were other reasons which, in the opinion of some gentlemen, ought to preclude any motion on the subject. They professed to think that an impeachment did not abate by a dissolution of parliament, but that to come to any vote upon it, would seem to pledge the House to proceed with this particular impeachment. They were anxious that the general principle should be separated from the particular case, and when the impeachment of Mr. Hastings was fairly got rid of, the House, they thought, might dispose of the principle at their leisure. Those who argued thus, were the movers of an abstract question, not he. They advised the House to assert an abstract privilege in general terms; but by no means to do so, till they had first dismissed the case to which it applied; to settle the point of law, but not till they had suffered the prisoner to escape. Just so might a culprit at the Old Bailey, or his counsel for him, after hearing his indictment read, and seeing his jury impannelled, in case of any difficulty in point of law arising, say to the court, "This is a general question of law, and I am charged with a particular fact: do not prejudge my case, by deciding on the point of law; separate the general principle from the particular case: suffer me to depart, and decide on the point of law when I am dismissed from your bar, and in no danger of being affected by your decision." This would be a proposition, to which, he apprehended, neither the court nor the prosecutor, unless he were a collusive prosecutor, would be very ready to listen. Without any such attempt at refinement, without either separating what could not be separated, or blending what ought not to be blended, and taking for his model the vote on the impeachment of lord

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Danby, after a dissolution of parliament, he should move a plain, practical resolution, namely; "That it appears that an impeachment by this House, in the name of the Commons of Great Britain, in parliament assembled, and of all the Commons of Great Britain, against Warren Hastings, esq. late governor-general of Bengal for sundry high crimes and midemeanors, is now depending."

Sir Peter Burrel having read the resolution,

Mr. *Erskine* rose, and after complimenting Mr. Burke on the wit and eloquence of his speech, said, that if it had been his purpose to endeavour by argument to have negatived the resolution proposed by the right hon. gentleman, he should better have known his station than to present himself to the House in the very front of the debate; that he would have contented himself with supporting his opinion, whatever it might ultimately have been, in some later stage of the argument, after its foundations had been laid by persons, of greater parliamentary experience, and possessed of more leisure to investigate so complicated a subject, and of such infinite magnitude and importance. He could therefore assure the House, that it was from an unfeigned sense of his own inability and want of preparation, when compared with the difficulty and probable consequences of the business they were engaged in, that led him to offer himself to the chairman's notice before the discussion had been advanced in, in order the more seasonably to suggest the propriety of deferring the decision, and appointing a committee to search for precedents on the subject; by which course alone an assembly so very popular could come to a decision with the precision necessary on such a momentous occasion, and consistently with that dignity which they ought always to preserve in the eyes of the public which they represented.

It was the invariable practice of both Houses of parliament to search for precedents on all subjects of deliberation where the resolutions of either House might be expected to guide or influence the decision; and that mode had recently been adopted, almost as of course, on a subject of the greatest concern indeed, but not of greater novelty and difficulty than the present. He was farther prompted to the motion he meant to make for searching precedents by the language of the right hon. gentleman who moved the resolution; for though for the reasons assigned by him he did not detail the principles or precedents on which his resolution was founded, yet he informed the House, that he had sought its foundation in every extant record, and history, and had collected the information of every mind capable of adding new lights to his own upon the subject. These were, indeed, necessary preparatives: but it should be remembered that if they existed, as he had no doubt they did with the right hon. gentleman who framed the motion, they were equally necessary for the members of the House who were to decide upon it. Minds with such lights and information as belonged to the right hon. mover, few, indeed, if any, could boast of; but that reflection rather added to the propriety of suffering others to collect materials for judgment, and to obtain time for deliberation.

In reflecting on the fittest mode of endeavouring to convince the House of the expediency of appointing the committee which he should move for, a dilemma presented itself—If, on the one hand, he should rest the fitness of his propositon on general observations, without investigating the precedents which created the doubts and difficulties of the question, he might fail in impressing the House that any doubts or difficulties existed: and if, in avoiding that failure, he should enter at large into the precedents he had examined, it might be objected to him that he had himself exhibited the materials which he was praying leisure to collect. He should however pursue the last as the properest course, not thinking that his particular possession of the precedents would remove the necessity of a committee to search for them; for how could the House take his collection without examination to be authentic, or be sure there were not many others behind which were still unexamined and unknown. Much of the debate might besides turn on the classing and recollecting and comparing of dates, and upon a critical examination of the very wording of the different authorities and resolutions, which no human mind could any where manage without notes of them, far less in the collision of such a debate in an assembly so numerous and fluctuating as the House of Commons.

Before, however, he had recourse to the few precedents he had seen on the subject, a great preliminary question pre-

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sented itself: on the due consideration of which, all their validity undoubtedly must depend, viz. by what rule, and upon what principles the subject was to be investigated; or, to speak more plainly, was it a question of privilege to be decided by expediency, or a question of law to be determined by rule? No man prized more highly the privileges of the Commons than himself; his short political existence in a former parliament was begun and ended in a struggle to preserve them; he maintained them under the auspices of his most excellent friend near him (Mr. Fox), and he returned to his seat again with the same principles—But the question before the House was, in his mind totally foreign to every principle of privilege. It appeared to him to be a pure question of law, and which the rules of law could consequently alone determine. It was to give to all the subjects of England under the fixed standard of the law, the possession of life, property, freedom, and reputation; by this all the privileges of the House of Commons had been for ages directed; by these privileges, the rights, and liberties of the subject had been, one after another, maintained and enacted into law, in different ages of our history; and God forbid that after they had been thus gloriously fought for by their patriot ancestors in that place, they should be at once set loose again by the House in the meridian of its authority, giving law to a court of justice, and dictating the state of its own prosecution to those judges appointed by the constitution to decide it.

The objection he had to the resolution was, that it appeared to him to be judicial. If the motion had been for the appointment of managers, on the principle that the House would not entertain doubts of the existence of its own prosecution, but would consider the continuance of it as of course, leaving the Lords to decide on it, as a matter of judicature, much less objection could have been taken to that course of proceeding; but the resolution seemed to presuppose doubts of the continuance that had never been stirred, and quieted them by a resolution that the impeachment was now pending. This seemed not only the assumption of judicial authority, but a declaration which might pledge the House to give it more than judicial effect. His apprehension was, not the consequence of any loss of privilege by a difference with the Peers, an apprehension vain and unfounded, but he thought that the Commons of Great Britain, by the weight of their high privileges, should rather be anxious to uphold the course of law, and give support to the balance of the state, than to exert them against the one or the other.

He said he would now proceed to lay, the foundation of his argument, by maintaining that the present state of the impeachment, be it what it might, was a pure question of law: to be decided by the House of Lords, sitting as a court of impeachment on the inquisition of the Commons; a court, to all intents and purposes as much an English court of criminal law, as the court of King's-bench, or the quarter sessions of any county in the kingdom. It was impossible to deny this, without insisting that the Magna Charta of the kingdom and the thirty statutes confirmatory of it, were all repealed: or at least that though existing for subordinate purposes, they could in the present instance be made to bend to the will of one branch of the legislature. The first struggles of our ancestors were to fix deeply and immovably the root of all sound and rational liberty, by bringing justice, criminal and civil, to a precise standard—arbitrary, anomalous proceedings, by which the subject was questioned before jurisdictions not defined by law, and exposed to trials and judgments ascertained by no legal standard, was the great vice of the ancient government of England: and the grievance which first called forth the spirit and wisdom of the founders of the constitution to put an end to these worst of evils, and to bring the enjoyment of life, property, and liberty, within the plain unequivocal protection of positive law, was the very object of the Magna Charta, and was amply secured by the twenty-ninth chapter, which enacted, that no man should be taken, or imprisoned, or deprived of any property, privilege, or franchise, but by the judgment of his equals, or the law of the land. Under such alternative, therefore, every English trial must be had; a jury of equals must decide in all cases on the life or person of an English commoner, unless where there were exceptions by immemorial custom, or positive statute; in other words, by the law of the land.

The trial by impeachment was one of these exceptions, and its only foundation must therefore be English law, and consequently the course of proceeding under it could never be changed or abrogated

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by a resolution of the House of Commons, but must be changed alone by the entire legislature of the kingdom. This sacred security of the English government the Magna Charta first established; and its thirty confirmatory statutes, with their strong, deep, and intertwisted roots, bound fast the spreading tree of our liberties, often shaken, indeed, but never loosened, by the contending tempests of ages; and the House of Commons had ever stood as a fence round it, and planted new laws for its shelter and preservation. The trial by impeachment, established by the most ancient usage, was unquestionably an institution necessary for the preservation even of the laws themselves, and all the securities of the government; but it was instituted by the same cautious wisdom, and tempered with that just and benevolent spirit, which so peculiarly characterised English jurisprudence. In times when the power of the Crown and its subordinate executive magistrates would, without due check, have laid waste all the rights of the subject, and when even the judges of the law were but too often the subordinate engines of oppression, it became necessary to provide a tribunal where criminals could be questioned whose authority or means of corruption might over-awe or seduce the ordinary courts and ministers of justice. But though spurred on by necessity, no less than the support, or rather the existence of infant popular rights struggling in ancient times for self-preservation, but now established beyond fear or danger, even then mark the wisdom and providence of the founders of the constitution; they did not forget the safety of the criminal, even in providing for the superior safety of the state. When they conferred an inquisitorial jurisdiction on one branch of the legislature, they recollected the overruling influence and authority of such an accuser, and therefore conferred the power of judicature upon a co-equal branch of the government, which, from being superior to awe or influence, actuated by different interests, and divided by dissimilar prejudices, was likely to hold even the balance of this necessary and superior court of justice. By this mode of considering the subject (and it was so considered by Mr. Justice Blackstone, and every other writer of authority) the trial by impeachment stood harmoniously consistent with the entire constitution, and with all the analogies of law. By this mode of considering it, it could alone be reconciled with Magna Charta; for though the party impeached was not tried indeed by his equals, because his equals were his accusers, yet he was still tried by the law of the land, the alternative in the wording of the statute, which he could not be if an impeachment were not a branch of the established criminal justice of England.

Besides this legal proceeding by impeachment before the peers of the realm as a court of criminal law, it would appear, he said, by an inspection of the ancient records of parliament, many of which he had examined, as collected by lord chief justice Hale, in a manuscript printed by Mr. Hargrave, but not published, that the lords anciently drew commoners before them on the accusation of individuals, contrary to Magna Charta, and the various confirmatory statutes; that repeated complaints were made of these abuses by the Commons, and that at last they were declared to be utterly void, and were formally abolished by the statute, 1st of Henry 4th, chap. 14th. The lords, however, for some time, seemed to have disregarded the statute, till upon a private impeachment of lord Clarendon by lord Bristol, the House of Lords referred the question to the judges, who declared such a proceeding, on the accusation of an individual, to be contrary to law, coming, as lord Hale expressed it in the 91st page of the work alluded to, within the words of the 29th chapter of Magna Charta. "Nec super eum ibimus, nec super eum ponemus." Lord Hale added, that from that time an impeachment by the Commons of Great Britain was the only case in which a commoner could be subjected by law to the judicature of the peers. Assuming then an impeachment to be a legal prosecution, on the accusation of the Commons, before the Lords House, could it be any longer a question, by which of the two Houses every matter that the accused had a direct interest in for his preservation, should be adjudged? Common sense and common justice equally revolted at a judgment affecting the accused, delivered by the accuser. The court that was to judge him, could alone decide it; and it should be left to its decision, without being led to it by authority, influence, or fear, which were all alike hostile to the impartial deliberations of justice. If the Commons, therefore, on examination of

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the subject, should have reason to think that consistently with a series of former judgments of the lords in similar cases, a person impeached had a legal right to be dismissed from the impeachment, by a dissolution of the parliament, they ought studiously to forbear by an exercise of their own authority, to place any person accused by themselves, in a worse condition before his judges, than he might stand in without such interference; and rather repair the defect of the law by a prospective statute, than deprive an individual of the protection of it, by an *ex post facto* resolution.

He said it appeared to him that the jurisdiction of deciding on the existence or state of the impeachment, as it might be affected by the dissolution of parliament, was a question equally judicial, with any other that might occur in the course of trial. For that the lords might be obliged to decide it upon the objection of the person accused. And he could not conceive that the Commons had a privilege to affect the state of the prisoner in judgment. If the lords, indeed, were, *mala fide*, to give a judgment hostile to the validity of an impeachment, and contrary to established rule and custom; which, in the absence of statute, could alone determine what was law; such a proceeding would deserve the most serious consideration, as a dangerous abuse of judicial authority. But still the question of judicature would not be changed, by the possibility of such a supposition, and it equally remained to be decided by precedent, what the custom and rule of proceeding had been, which established the law. For he never would admit that policy, however wise or expedient, however urgent, could alter the rule by which an English subject, under the English law, had an unquestionable privilege to be judged.

If the decision then was with the Lords, it was next to be examined by what rule it ought and might be expected to be decided by them; for that too must be settled before the precedents could be stated with effect. He said, if the rules of decision were not to be found in the Lords' Journals, where were they to be sought for, and what rule of law for the protection of the subject could exist? And was it to be believed, that after the virtue and wisdom of ages had been exerted for the security of the subject, against every species of arbitrary power and punishment; was it to be believed, that when the probability of oppression in accusations of state had reduced their ancestors to provide so many securities against vexation, in the course of trial, that they should purposely have left, without bounds or limits, an engine of power, highly necessary indeed, but like every other power that was not measured by law, destructive of all the happiness and security of life? He apprehended therefore, that, the Lords must govern themselves by the judgments of their own House upon similar occasions, and must deal with him, if he were placed before them, as they had dealt with others in judgment. A person accused, had, by the genius of the law, a right to come under the protection of technical and formal objections, even when he stood not within the reason of them, much more if the protection insisted on were found to be consistent with the whole spirit, and all the analogies of justice. The court of King's-bench could not enforce Mr. Wilkes's outlawry, though valid in every substantial part, because the county court, where he was proclaimed and exacted, was not described upon the record with the precision sanctioned by custom, though it was plain to a common reader, that it was described so as to be distinguished from any other. The first inclination of the mind opposed such a precedent; but the defeat of justice in that, or any other particular case, was never lamented beyond its measure by any wise man; because when even good judges must thus sometimes stand disappointed in the just execution of law, from the strictness necessary to the administration of it; the example formed an inexorable barrier against the inroads of power and tyranny, in cases where policy and expediency might easily be warped on the spur of occasions, to confiscate property, or to destroy liberty and life. He admitted that the power of defeating an impeachment, was an inconvenient and exceptionable prerogative of the Crown; but not more dangerous than many other prerogatives formerly belonging to the kings of England, which in subsequent ages had been taken away. But how taken away? Not by resolutions of their inexpediency, acted upon till the prerogatives were abandoned without statute, but by the regular course of legislation, the Commons employing the weight of their privileges to compel consent to a new and better rule of action, and not by

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destroying the sanctions of government, or beating down one dangerous power by the introduction of a greater. Mr. Erskine therefore insisted, that the state of the impeachment must be decided on by the Court where the Commons by law had lodged it; and that the former judgments of that court of competent jurisdiction and an acquiescing legislature constituted the law on the subject. By an acquiescing legislature, he meant, that when a series of judgments, by a court of competent jurisdiction, *a fortiori*, of a court in the last resort, had established any rule of decision, every subject had a right to the benefit of it in judgment while the rule remained in existence, unreversed by the authority of parliament; and that, therefore, he should venture to consider that the solution of the question (let it be discussed where it might) depended wholly on the judgments of the Lords in similar instances, to be collected from their different acts, as found in the Journals of that House.

Mr. Erskine, having thus laid, what he called the foundation of his argument, and having discussed the abatement of writs of error in parliament, by the common law, before 1673, at a length beyond the limits of our report, was advancing, to the precedents, when, owing to his fatigue in the courts, in the earlier part of the day, and the intense heat of the House, he told the chairman that he was unable to pursue his argument.

The *Speaker* said, that after having examined, with all the accuracy and attention in his power, such precedents as were analogous to the case in question, he felt himself warranted in declaring that each of them went decidedly in favour of the impeachment remaining *in statu quo*. He traced the growth and developement of the principle of impeachment from the reign of Edward 4th, contending, as he proceeded, that in its relation to the effect of a dissolution, it was precisely the same for impeachment as for writs of error and appeal. He produced various instances of writs of error not abating prior to 1673, and thence drew his conclusions, that the report of the Lords' committee, and the resolution of the Lords at that time, which had remained unquestioned ever since, were founded on precedents, and what was clearly understood to be the practice of parliament; that the report and resolution of 1678, respecting the continuance of an impeachment after a dissolution, were grounded upon that of 1673, because both impeachments and writs of error stood so strictly connected in principle, that it was impossible to make a distinction between them; that the resolution of 1673 could not have been adopted merely as a colourable foundation for the resolution of 1678, because when the former passed it was impossible that the case to which the latter applied could have been foreseen; and that when the earl of Danby applied to the court of King's-bench to be bailed after the dissolution of parliament, the court recognized the doctrine, that the impeachment did not fall to the ground in consequence of the dissolution, as the known and established law of parliament. On the precedent of 1685, by which this resolution, as far as it respected impeachments, was reversed, it might be necessary to remark, that its authority was of no avail, the Commons having been corruptly chosen, and wholly devoted to the court; the principal evidence for the prosecution, Titus Oates, convicted of perjury, and consequently incompetent; and the resolution itself passed without an examination of precedents, not generally with express limitation to the particular case. Pursuing this train of argument, the Speaker inferred, that from the cases of the lords Salisbury and Peterborough, in 1690, it was understood to be the law of parliament, that impeachments do not abate by a dissolution, and that, after much delay and management, they were at last discharged by a resolution strictly applicable to their particular case, and in no respect affecting the general question. Even the case of the earl of Oxford, in 1717, would, as far as it proceeded, warrant a similar conclusion. It behoved the House to use the utmost circumspection in ascertaining how far their right might be affected by the doubt which appointing a committee to search for precedents would imply. Let the friends of Mr. Hastings remember that his case was unconnected with the general question; that if it were proper for the House to proceed against him, the renewal of the impeachment would be a greater hardship than to take it up where it now stood; and that, at all events, neither the length of the proof, nor the magnitude of the crime, could, with any shadow of decency, be suffered to protect the criminal. The Speaker earnestly advised the House not to put it in the power

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of the Crown to set aside an impeachment by a dissolution, or of the Lords to defeat it by delay, which, as they might choose on what and how many days they would sit each session of parliament, they might be able to do, were a dissolution not to carry it into effect. Upon the present occasion, it certainly was the duty of the House of Commons entirely to clear away all doubts which might have arisen concerning the nature, force, and extent of their own privileges; and to stamp (if he might use the expression) a double certainty upon the case in question; and thus, whilst they did honour to themselves, to confer one of the most important services in their power upon posterity.*

Mr. *Hardinge* said, that no consideration short of the earnest wishes which he felt to mark the weight of prejudice in his mind, that had been counterbalanced by weight of opinion, could have induced him, after the brilliant and argumentative display of talents which had pervaded by much the greater part of the debate, to trespass upon the attention of the committee. He could safely assure the right hon. gentleman that he was not one of the converts to whom he had alluded, but steadily persevered in the sentiments he had before expressed, by act as well as by words, that it would have stamped a mark of infamy upon the commons of England, if they had not accused Mr. Hastings as a culprit of state upon the

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* The following List of Precedents touching the question of the Continuance of Impeachments, and other Parliamentary Proceedings from Parliament to Parliament, was referred to by the Speaker, in the course of the above speech.

General rule—*Error.*

EDWARD I.
18. Valentia, William de.
Lowther, Hugh de.
21. Scotland, John King of.
1302. 30. Breouse, William de.
Certain Merchants, *petition.*
Paynel, Wm. and Margaret, *ditto.*
1304. 33. Durham and Goldyngham, priors of, *ditto.*

EDWARD I. and II.
Annis incertis
Ros, earl of, *petition.*
Baliol, Alexander de, *petition.*
Corbrigge, John de, *petition.*
Reading, abbott of, *petition.*

EDWARD II.
1312. 5. Statute, *for holding parliaments once or twice in a year.*
1315. 8. Ergum, Thomas de, *petition.*
9. Order, *touching the receiving and expediting of petitions.*
8. Curtney, Hugo de, *petition.*
9. Multon, Thomas de, *petition.*
Lucy, Anthony de, *petition.*
Despencer, Hugo le, *petition.*
1324. Durham, bishop of, *petition.*
1325. 18.

EDWARD III.
1330. 4. Mortimer, Roger de.—Berryford, Symon de.—Matravers, John.—Bayons, Bogo de.—Deveral, John.—Gurney, Thomas.—Ogle, William.
1330. 4. Berkeley, Thomas de, *impeachment.*
1331. 5.
1341. 15. Canterbury, archbishop of, *arraignment.*
1343. 17.
42. Lee, John de la.
1376. 50. Latimer, lord, *impeachment.*
1376. 50. Lyons, Richard, *impeachment.*
1377. 51.
1377, 51. Perrers, Alice, *petition.*
See RIC. II. Anno 1, 2, and 21.
1376. 50. Bury, Adam de, *impeachment.*
1377. 51.
1377. 51. Leycester, John de, *petition to reverse proceedings upon an impeachment.*
Spurrier, Wanter, *petition to reverse proceedings upon an impeachment.*
1376. 50. Peeche, John, *impeachment.*
1377. 51.
1376. 50. Elys, William, *impeachment.*
1377. 51.
1376. 50. Neville, lord
1377. 51. Falstolfe, alias Scaffolk, Hugh, *petition to reverse the proceedings upon an impeachment.*
1376. 50. Petition, *of the Commons that no pardon be granted to the persons impeached in this parliament.*

RICHARD II.
1377. 1. Salisbury, earl of, *error.*
1377. 1. Perrers, Alice, alias Wyndsore, Alice, *accusation.*
1378. 2.
1377. 21.
1377. 1. Weston.
Gomine.
1380. 4. Ferrars, sir Ralph de, *impeachment.*
1381. 5.
7. Montague, prior and convent of, *error.*
Norwich, bishop of, *arraignment.*
Ellenham, sir William.
Tryvet, sir Thomas.
Ferrars, sir Henry de.
Farringdon, sir William de.

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evidence laid before them. He did not hesitate to add, that if the law should exempt this culprit from any further trial upon his impeachment, and exempt him by the dissolution of parliament alone, he should, in a political view, reflect upon it as a calamity of the deepest impression, with a reference to that particular impeachment. He would also admit and profess, with some of the gentlemen who had preceded him in the debate, that it would be a political evil much to be deprecated, with a reference to the disability imposed upon the king's right of pardoning an impeachment, as it proceeds, if the king, by a dissolution can terminate this mode of trial aimed at a favourite minister by the public spirit of the kingdom. Yet he would embrace the calamity in both these views, before he would buy them off at the expense of those rights and liberties which he could never separate from a government by law, and which he was bound, with as much firmness to support as the impeachment of Mr. Hastings, or of other such delinquents, where it could be legally pursued.

Fitzralph, Robert, esq.
1386. 10. Pole, Michael de la, *impeachment.*
1387. 11.
1388.
1386. 10. Pole, Michael de la, *impeachment.*
1387. 11. Brembre, Nichol, and others.
1388.
Belknap, sir Robert, *impeachment.*
Cary, sir John, and other judges.
Burley, sir Symon de, *impeachment.*
Beauchamp, sir John.
Salisbury, sir John.
Barners, sir James.
13. Metham, sir Thomas, *error.*
15. Sheppy, John, *error.*
Bassett, Edmond, *appeal.*
21. Gloucester, duke of.
Arundel, earl of, *appeal.*
Warwick, earl of.
15. Arundel, Thos., archbp. of Canterbury, *impeachment.*
19. Mortimer, sir Thomas de.

HENRY IV.
5. Deyncourt, Roger, *error.*

HENRY V.
1413. 1. Gunwardby, *error.*
1414. 2. Salisbury, earl of.
Stanhope, sir Richard.
Paunfield, Thomas.
1415. 8. Cathermaine, *error.*

HENRY VI.
1450. 28. Suffolk, duke of, *impeachment.*
1451. 29.

JAMES I.
22. Macdonnagh, *error.*
Report, *of a committee, who are of opinion, that divers petitions should be retained in statu quo, until the next session of parliament, with whom the House agree.*

CHARLES II.
1649. 1. Oxon, earl of, and others, *petition.*
1660. Drake, William, *impeachment.*
1666. Mordaunt, lord, *impeachment.*
1668. Penn, sir William, *impeachment.*
1671. Read, Dame Alisimon, *petition.*
Delawarr and Berkeley, lords, *petition.*

CHARLES II.
1673. 25. Report, *of a committee appointed to consider, whether writs of error and appeals are necessary to be renewed in a new session. This report contains a number of precedents; the names of them are here inserted in the order of time.*
Opinion, *of the committee, that they need not be renewed.*
Resolution, *of the House, agreeing with the committee.*
1677. Pembroke, earl of, *certiorari.*

CHARLES II. and JAMES II.
1678. 30. Lords, the five popish, Arundel,
to Powys, Bellasis, Petre, Stafford,
1685. *impeachments.*
Danby, earl of, *impeachment.*

CHARLES II.
1679. 31. Danby, earl of, *Conference, in which the Commons declare their sense touching the continuance of impeachments.*
Resolution, *that last prorogation made a session.*
Report, *of a Committee, their opinion is, that the dissolution of the last parliament doth not alter the state of impeachments.*
Resolution, *agreeing thereto.*
1680. 32. Scroggs, sir William, *impeachment.*
Seymour, Mr., *impeachment.*
1681. Tyrone, earl of, *impeachment.*

JAMES II.
1685. 1. Resolution, *reversing the last resolution.*
Stamford, earl of, *certiorari.*

WILLIAM and MARY.
1689. 1. Salisbury, earl of, *impeachment.*
1690. 2. Peterborough, earl of, *impeachment.*

WILLIAM and MARY.
1689. 1. Salisbury, earl of, *impeachment.*
1690. 2. Peterborough, earl of, *impeachment.*
Report, *of a committee appointed to search for precedents, whether im-*

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He was aware of the jealousy entertained in that House against legal analogies, and had no wish to repress it. No man could be more averse to them than himself in parliamentary debate, if they were technical or averse to the genius and spirit of the constitution. He would appeal to no such test, but refer the committee and himself to the law and custom of parliament, by which he understood the general nature of its powers in a liberal view of them—the rights it had affirmed, and the duties it had confessed, by the tenour of its conduct, as well as by its mere authorities of decision. It would be material to delineate, shortly, the character which this constitution had given to the House of Commons and Lords, and it would help to elucidate the point in debate. He was eager to disown the idea given of the Commons by sir Francis Winnington upon the earl of Stafford's trial, and which the right hon. gentleman, whom they had just heard with so much pleasure, had read with an emphasis that marked approbation, in which the sense of the House had apparently followed him. He refused that humiliating, as well as false image, that proceedings in parliament of this nature were kept alive, because the Commons were the same, though with a new representation. This idea insinuated that the people out of doors were the Commons of England, and the representatives of the people were their attornies or agents. It was, he conceived, the peculiar beauty and pride of the English government, in the popular scale of it, that all such representatives were perfectly independent of the people, and were themselves, during the legal continuance of their powers, the Commons of the land. It followed from this principle, that the Commons of one parliament were unfettered by their predecessors, and would never give them credit for proceedings which had not received the sanction of law. It followed equally, that when the parliament was at an end, their control over the rights of the subject, and their support of these rights were equally at an end. The idea of taking up an old proceeding *in statu quo*, as it is called, was refuted by a fair description of all their powers, and of the limits to which they were confined. If a day was given for attendance, and the day arrived in a new parliament, the next House of Commons could not act upon it. If the Commons imprisoned for a contempt, the door of their prison was opened, when those who imprisoned were no more. If the Commons, as a part of the legislature had framed a bill, and their messenger was carrying it up to the Lords when the king was dissolving the parliament, no future House could proceed upon that stage of the bill, but the whole was to be taken up again. If such a bill was in the nature of a public charge against a culprit of state, as in attainder, and bills of penalty, the same rule attached upon it, and the culprit (in effect, though in a different shape) would escape, unless the whole proceeding should be taken up *de novo*, as if it had never been moved one step. In impeachments the Commons had a very peculiar character as accusers; they had no judgment either to acquit or condemn any more than other parties who prosecuted. They had no judgment of direction as to the mode of proceeding, or the extent of judicial powers in the court at whose bar they appeared; but they had a judgment of disabling, at any

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peachment continued in statu quo, *from parliament to parliament. This report contains a number of precedents; the names of which are here inserted in the order of time.*

Resolution, *of the House upon this Report, in which they take notice of the above resolutions of* 1679 *and* 1685.

Protest.

1692. Mohun, lord, *certiorari.*

7.

8.

9.

1695. to 1701. 7. Leeds, duke of, *impeachment.*

1698. 13. Longueville, Peter, *impeachment.*
Goudet, and others, *impeachment.*
Dumaistre, *impeachment.*
Warwick, earl of, *certiorari.*

1701. Haversham, lord, *accusation.*
Protest.

GEORGE I.

1715. to 1717. 1. Oxford, earl of, *impeachment.*

3. Report, *of a committee, of such precedents as may the better enable the House to judge in lord Oxford's case. This report contains a number of precedents, the titles of all which are here written in the order of time.*

1717. Resolution, *on the report.*
Protest.

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period, by their own discretion, all further steps in that court, and could make it wait for their *fiat*, whether the justice they had invoked should or should not be carried into effect. The House of Lords fell under the same disability, and enjoyed the same independence in its legislative character. In its judicial, it could not imprison for a day, or a minute, beyond that which closed the parliament; and he would here deny, that even in treason, where the commitment was by the House of Lords upon an impeachment, the custody which remained, or the discretion of bail upon it in the courts of law, proved an indefinite power to extend imprisonment for the ends of justice, beyond the duration of a parliament (as it had been argued), and stated, that in his view they proved the direct reverse. He conceived that the habeas corpus act met the case of high treason, by considering the original commitment, and the original cause of it as legal or illegal; and that remand, bail, or discharge, had no reference to any supposed control of the Lords over their culprit, after the parliament was at an end, by virtue of their inherent powers. He at least contended, that if the commitment remained by virtue of such powers, it applied singly to those cases; and he would ask one question, which in two or three words, explained their want of power to make their own culprit amenable after a parliament was closed. He would ask what imprisonment restrained Mr. Hastings, or kept him even in the kingdom? He would ask what penalty of bail was a guard over him or his friends? He would ask if any lawyer (parliamentary or in Westminster-hall) would assert, that Mr. Hastings and his bail could, upon impeachment for high crimes and misdemeanors, be touched between parliament and parliament, by an order of the Lords. Indeed, if they could, it would follow, that anciently imprisonment would or might have been indefinite at the mercy of the king, in all cases of impeachment for high crimes and misdemeanors. If it be said "no, the courts may remand the culprit or not, by their discretion; as it is admitted they can upon impeachments for high treason;" he answered, "show me first the impeachment upon a charge for high crimes and misdemeanors, or even the bail existing after the parliament; and I will see what the courts of law have done with it." He would state one dilemma very difficult, if not impossible, to be solved, If the Lords cannot imprison at all, or bail for a time beyond the parliament, upon impeachment for high crimes, and may yet proceed *in statu quo* at a new parliament, the power is a mockery of justice, for they have no prisoner. If they could, on the other hand, imprison him till the next parliament, they could have done it indefinitely, as long as it pleased the king to discontinue parliament. If the courts of law could interfere in treason, it proved a discretion of those courts, which might break in upon the security intended by the commitment, as the act of the Lords.

He would say a few words upon two other judicial powers exercised by the Lords—the power of trying appeals and the power of trying peers by removal of indictment. Upon writs of error they could not stir in the next parliament by the common law, if the error was not reversed or affirmed in the former parliament. This disability had extended itself even to the case of prorogation in early times. Lord Hale says, in a manuscript written with his own hand, and which he (Mr. Hardinge) had perused, that he was present when the Lords determined, that in prorogation, writs of error abated unless by special order continued; but that in 1673 it was first otherwise determined. He affirms, however, that by dissolution of parliament the writ of error completely abates, and he wrote before 1678. He adds, that he has known it so determined. It is true, that now writs of error do not abate, and that in that respect the order of 1678 has been affirmed by usage; but if the law was originally different, it proves the idea with great force, that "*in statu quo*" was out of sight, even upon writs of error, and the analogy would, in that view of it, apply to impeachments. But he denied the analogy between them, if it was contended, that because writs of error do not abate, impeachments can be taken up *in statu quo*. In writs of error the record remains, and so in impeachments: but in writs of error there is no evidence. And he would ask, if there was an instance in the House of Lords, or in the other courts of justice, where the new House of Lords, or the new court, if the original record was before them, carried on the evidence *in statu quo* upon criminal proceedings? This question led him to another, which he addressed to the right hon. gentleman

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over against him.—Did he mean by the term "depending," that the record was in court, so that Mr. Hastings might be called again to plead, or did he mean, that the evidence was to go on where it left off? Ambiguity was to be avoided in such a resolution; and he might be of opinion, that in one sense of the word an impeachment was depending still, and that in the other it was not.

Upon the topic of precedents, the first important fact that struck him was, that from the time that impeachments began, down to the year 1678, no one instance was to be found of an impeachment continued by the next parliament. It was probable, that some of these earlier impeachments were closed within the parliament which first adopted them, but the committee would recollect how very short the continuance of each parliament used to be in those periods. It might therefore be fairly supposed that many of those proceedings died a sudden death, by the king's power in terminating the court. It would as little be forgotten, that most of the intervals between one paliament and another were extremely tedious; which was a fact that would account for the policy of the constitution, in liberating the victim from custody, if the other alternative should have been to keep him in prison for an indefinite period. But the, case was far from resting there; for instances, before 1678, occur, within the reigns of Charles 1st and Charles 2nd where impeachments, in fact, were at an end, if not in law, after the parliament was dissolved before judgment. He would here have the candour to admit, that such an actual end of an impeachment, thus interrupted by an end of the parliament itself, might have arisen from the inexpediency of carrying on the old prosecution; yet he would mention two cases in which it struck his mind forcibly, as if the Lords and Commons had supposed the impeachment legally at an end upon the dissolution of the parliament. One of them was the case of the duke of Buckingham in the 2nd year of Charles 1st, when that minion was a just object of popular indignation; the Commons impeached him, and pending the impeachment, the king dissolved that parliament, evidently for the purpose of defeating this challenge upon the justice of the Lords. In the mean time the king extracted the articles of this impeachment, made them articles of an information against the duke in the court of star chamber, and stopped that proceeding upon the colour of being satisfied by the evidence that he was innocent. This conduct was clear notice to the Commons, that the king looked upon the impeachment after a dissolution, as a nullity. The next parliament was convened in a very little time after that manœuvre, and we hear no more of the impeachment, nor is any complaint suggested against the insult upon the Commons, though in that light it would have been viewed if the impeachment had been depending. Was the duke less execrated by the Commons? Had he corrupted them? Had the king enslaved them? Were they ignorant? or cold in the scent? The duke was more detested than ever; the king was at their mercy; and they were as great men as any that ever lived. But nothing more need be said of them than that, in that very year, they obtained the second Magna Charta of England in the Petition of Right; above all, it should not be forgotten that sir Edward Coke was in that parliament converted by disappointment into an active patriot, and enabled, by his deep knowledge of the law, to put the most effectual checks upon every usurpation.

In 1665, another instance occurred of Drake, impeached for a libel. The Lords direct, that in case of a dissolution, he should be the object of prosecution by the attorney-general in the King's-bench. Why? Could not imprisonment for the interval have satiated their spleen? And would not it have ensured the culprit when the next parliament should meet? The order for prosecuting by the attorney-general after a dissolution was illegal; but the suspicion that gave birth to it appears to have been that he would else have escaped, and that neither imprisonment of him nor bail, would have been legal between that parliament and the next. The right hon. gentleman who had spoken last, had said, that prior to these periods, instances were to be found of proceedings in parliament against criminals of state, though not in the form of impeachments, extended, in fact, from one parliament into the next. But as far as these obsolete precedents went, this at least appeared: first that special orders were deemed necessary so to continue the charge, which necessity admitted that, without special orders, it would have abated; and, secondly, that unless it appeared the charge was acted upon *in statu*

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quo after evidence heard, it would not reach what he supposed to be the object of the resolution at present in debate; namely, the power to go on against Mr. Hastings, just where the managers had left off.—With respect to the celebrated case of lord Danby in 1678, which, according to the right hon. gentleman, had matured the seeds of this continuing impeachment, and had rooted that strong plant of the constitution by a law which never could be shaken. Mr. Hardinge observed, that he would first, presuming to differ with him as to the character of those times, represent them to be what every sound historian had called them, times of popular fury and persecution. It had been said, "Yes, but the Lords and Commons were quarrelling when that parliament began, which resolved, that impeachment were *in statu quo*. It was therefore a reluctant evidence wrung from the Lords, by the public spirit of the Commons, in favour of their constitutional right." The answer is, that at this critical period, the Lords and Commons were united, and equally violent against the Popish plot. or against the minister then disgraced; that lord Shaftsebury and the mal-contents of the day had forced themselves upon the cabinet, and governed this very committee, whose chairman was lord Essex. These being the actors and the views, the act was in character. It should speak for itself, and he would prove to the committee as a mere historian, that it was full of trick—that it shunned the light—and that it made a new law without reason, precedent, or analogy, even alleged. The Lords were first reminded of the impeachments—and what course did they take? They refer to their committee an inquiry upon two points which are distinct; one, as to the law respecting the continuance or abatement of appeals and writs of error, without apparent occasion for it; another, as to the fact respecting the particular state of the impeachments made in the former parliament. The answer given upon the following day is perhaps as curious a passage as any upon the records of parliament, and vitiates the whole proceeding engrafted upon it. They report, that upon their view of a judgment by the Lords, in 1673, petitions of appeal and writs of error were in force to be acted upon: they add (as it appears by sir Thomas Raymond's Report), that the papers contained in that judgment of 1673, are too voluminous. In a distinct sentence, after stating the impeachments to be upon special matter assigned, they give their opinion to a point of law, as to which they had never been interrogated, and at one stroke, affirm that opinion to be, that all those impeachments were *in statu quo*; not in reference to the judgment of 1673; nor with a single ground of any kind, either stated or insinuated. Both parts of the report are then adopted by the House, who never appear to have looked at this judgment in 1673; but give their committee ample credit for a candid statement of its effects upon writs of error. Who would have entertained a doubt, upon this report, that in 1673 the Lords judicially had affirmed the law by which writs of error were to continue after a dissolution? But when the judgment, as it is called (which is only a resolution of the Lords upon a reference to their committee), is brought forward, it appears that no question was put or imagined respecting dissolution of parliament, with a reference to writs of error; but the point had been raised, whether, if prorogation had intervened, those writs were at an end? If he should be told, "prorogation was the same as dissolution of parliament in principle," he would refute as well as deny that proposition to be law, under the wings of lord Hale, who died after 1673, and before 1678. In his manuscript that great man alludes to the resolution of 1673, as correcting and reversing the law of a former judgment (made by the Lords in his hearing, and in that same parliament), that even upon prorogation writs of error abated: but was lord Hale of opinion, that prorogation and a dissolution of parliament were the same as to writs of error? So far from it that after seeming to adopt the decision of 1673, as good law, he proceeds to affirm as a point clear of doubt, that after a dissolution of parliament, the writ of error and petition of appeal was at an end; adding, that he has himself known it so ruled. Here, then, we detect an insidious concealment of the fact by those lords in 1678, as to the import of that judgment in 1673, and at the best a perverted analogy between two cases, which the existing law had completely distinguished. But the opinion asserted in the next breath by these lords as to impeachments could not be justified even by that judgment, if the first analogy between prorogation, and a dissolution had been correct, be-

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cause there is no fair analogy between writs of error and impeachment, after a dissolution of parliament, one of them containing mere points of law upon the face of the record, the other containing an accusation upon fact. In one of them the public accuser, who has a discretion to interpose before judgment is dead, and in the other no plaintiff is changed, but the same parties appear. The right hon. gen-gentleman had said, "that in some of the references by the committee in 1673, though it certainly was not in strictness the point before them, precedents appeared of parliamentary accusation, which originated in the House of Peers, and were continued by order from one parliament to the next." He would not again answer that observation, but ask, if it was clear of doubt that such precedents were decisive to establish the legal continuance of impeachments, in *statu quo*, without special orders, and where the evidence had proceeded? In character with such a mode of declaring or making laws as that in 1678, was the subsequent conduct of those times; nothing could be more infamous than what happened in the case of many persecuted catholics, whom the judges, and Scroggs at their head, executed, against all the rules of law and principles of justice. In character with such a law, and so made, was the course of an impeachment against lord Stafford. Here, indeed, the humanity of the right hon. gentleman and his candour uniting, he had conceded that nothing could be worse; but it was the same House of Peers with little variation, and at the distance only of two years. The right hon. gentleman had said, "these were abuses of a wise and constitutional judgment in 1678," made by the same judges, however and with an equal spur to that persecution of the catholics in which the earl of Danby was implicated, by a side wind, as well as the Popish lords then under impeachment: but this trial of lord Stafford is of extreme importance in marking what shame was felt upon the judgment in 1678, and in what manner the examination of it was eluded. Jones, Maynard, and Winnington say, "The lords have passed a judgment. It is too clear to be disputed. We are to suppose they had good reason for it; we are to suppose they had precedents; but if they had none, it is proper to make a new precedent." That is, proper to make it, by taking away lord Stafford's life. The earl of Danby, in 1682, accused the Peers of blowing upon their own order, by refusal of a bill that would have enacted it into a law. Then comes the reversal in 1685 of this resolution; so that authority against authority, the last prevails, and it is now the law of that court, that impeachments abate, after a dissolution of parliament. This period of 1685, the first year of a short and wicked reign, deserved all the odium a more enlightened age had thrown upon it. The reversal was indecent in the mode of it, partial in the object, and hurried through the House.

But there was a remarkable distinction taken by this reversal, between writs of error and impeachments: and that part of the order which relates to writs of error has been since received as the law of the land. He would prove that the other part respecting the impeachments had been recognized and adopted by subsequent authorities in the Lords, without a hint of disapprobation by the Commons. It was not, however, quite correct, that the Commons were then completely enslaved; serjeant Maynard was a host in favour of liberty, and then a member of parliament. He had been a champion for the order of 1678, against lord Stafford; but in 1685, though in the habit of protesting against many encroachments, he says not one syllable against this order of reversal, which negatives the continuance of impeachments after a dissolution of parliament. In 1690, the times were excellent, and perhaps a better era for the liberty of the subject could not be found than in that identical year. Maynard was in the House of Commons, and Somers, then solicitor-general, the best and greatest man that perhaps ever breathed in England or in the world. A question is directly put by the Lords, whether impeachments continued or abated, upon a dissolution? All the old precedents are examined, and many others that were not produced in 1673, are brought from the Tower. They are all stated, not concealed as in 1678. The committee intimate their sense of the law to be, that impeachments are at an end, upon a view of those precedents, and upon a view of those precedents the question of discharging the Peers is expressly put. It is true, that politics had their share in a debate which this report produced, and that the lords had not raised the point themselves, but had stated another in their favour. It is, however, certain that a debate arose upon this report,

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and he despaired of all attempts to reason in future, if he should be accused of an unfair inference from the dissent as marked in a famous protest against the resolution of the lords to discharge the Peers. But first, he would ask, what became of the House of Commons, when they saw the report affirming impeachments to be at an end, and when they least knew it had been a point in the debate, and when there was at least ambiguity in the question, whether the discharge was upon this ground or the other of the pardon? They urge nothing in favour of the order of 1678. But what says this famous protest? Is it silent upon the report? No; it condemns the introduction of it into the debate, but not the doctrine which it imported, and it imputes a design beyond that of relieving the Peers who had petitioned. This design is explained in Burnet, as having been to save lord Carmarthen, against whom his enemies had raised the question again, for the purpose of exposing him to an old impeachment which hung over his head, unless the dissolution had made an end to it. The enemies of that peer were busy against him in the Commons, and it was proposed at this very time to vote that, upon account of the impeachments in a former parliament, he should be no longer one of the King's cabinet ministers. Yet his enemies, aware of their own purpose in the Lords, and aware of the measures by which it had been met there, make no complaint against the danger, at least of the order in 1678; if it could have been supposed that it was not then done away by the order of 1685.

In 1717, the earl of Oxford was made subject, by a resolution of the Lords, to an impeachment after prorogation; and he could not imagine it possible to read the dissenting Lords in their protest, without a necessary inference, that the point of the question had been, whether if dissolution abated, prorogation had or had not a similar effect. This question assumed the law of abatement, as resulting from dissolution, and the Lords in their protest never controverting that law, but affirming and commending it, express their fears that it may be weakened by this judgment upon the case of prorogation, which they represent as the same thing: but the majority thought otherwise; and it is impossible to conceive that judgment either supported in argument, or in argument arrainged, unless upon this point it was conceded that a dissolution of parliament was the termination of an impeachment. Upon this view of the several precedents, Mr. Hardinge expressed a very serious doubt at least whether impeachments could be taken up *in statu quo* by a new parliament; and he could not help adding, that if all these precedents were thrown into the fire, a fate which, upon the mere character of the times, two of them deserved, he should have a doubt at least, and should incline to the opinion he had already intimated, as resulting from the constitutional powers residing in both Houses of parliament, by admitted practice and general illustration. He adjured the House to act upon the recommendation of a right hon. gentleman, who spoke last, as well as to admire it; in other words, to be deliberate and wary, in examining all the materials which could enlighten their judgment, before they affirmed, in the form of an asserted privilege, a judicial duty of the court, whose jurisdiction they could not change, and whose judgment they could not force. He intimated a dislike to this mode of asserting the right, even if they believed it was clear; but recommended that if that should be their opinion, they should act upon it in a mode of asserting it equally effectual, but less irregular; more temperate, and more constitutional. Thinking, however, as he then did, he should certainly give his vote in support of the motion, that sir Peter Burrell should leave the chair in order to the appointment of a committee (by the House when resumed) for the purpose of examining precedents.

Mr. *Yorke* said, that a constitutional question of such magnitude and importance required the utmost deliberation; he trusted, therefore, that to enable gentlemen to search for precedents, and become fully possessed of the nature of the subject, more time would be allowed.

Mr. *Anstruther* said, that differing as he did from many of his professional friends, whose opinions and characters he much respected, he felt it his duty to rise upon the present occasion, and deliver the sentiments which, upon mature deliberation, he had formed, more especially as there was no doubt in his mind, and as the magnitude of the question called upon every one freely to deliver his opinion. The question was no less, than whether the right of the Commons to impeach should exist, for it was ridiculous

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to affirm that the Commons had the right to impeach, if it was coupled with a power in the Crown to prevent the efficacy of an impeachment at any period which might suit the purpose of the advisers of the King, and destroy it even in the moment of conviction and judgment.

Having no doubt upon the question itself, he had as little in giving his negative to any motion for searching for precedents. He would not throw a doubt on the privileges of the Commons of England by appointing committees to investigate a point which at no period of our history had ever been doubted within the walls of that House. A right admitted and acquiesced in for centuries was not to be supposed doubtful, because some ingenious men had endeavoured to bring into question what their ancestors had agreed in for three hundred years, and if forced analogies and sceptical arguments from vague and unsupported theories were to be the grounds of appointing committees of inquiry into the privileges of the Commons, there was no right so established but might be called in question, and no privilege, however necessary, but might be disputed. He was sure that not a line in the Journals of the Commons could justify even a doubt; and if doubts were to be raised by investigation of the Lords' Journals, he was free to say that he would not look into the Lords' Journals for the privileges of the Commons, nor ask the opinion of a House of Peers upon the extent of the Commons powers: they alone were competent to declare their own privileges, and there was an end of the power of impeachment itself, if they were to inquire of the Lords what were its limits, and calmly submit this important privilege to their sole determination. If he was right in his view of the subject, it was idle to search for precedents, because the principle was a matter of daily practice; for three years the House had gone on with the trial, from session to session, from prorogation to prorogation; in principle and in law, there was no difference between dissolution and prorogation, between a new session and a new parliament. If he could make out that proposition, the search of precedents was futile: he desired the House to apply the same principle upon which they had proceeded in these three last years, or to point out some solid and sensible distinction between the case of a prorogation and the present.

The gentleman who spoke last had in a speech made to prove the propriety of a committee to search precedents, declared, that if all the precedents were brought upon the table and burnt, it would make no alteration in his sentiments. With what consistency could he search for precedents which he would not use, and why ask for authorities which, when got, were to be committed to the flames? It could not be for information, but for delay that he supported the motion.—The gentleman who opened the debate had admitted, that the course of decisions of a competent court, were sufficient to form the law: with that admission he was satisfied as far as the present debate went; although he neither could nor ever would admit that any decision of the House of Lords could make the law. Their decisions, consistent with principle, were the best evidence of the law which the House could not make by its resolutions. But he hoped to prove, that giving the hon. gentleman his principle, that very principle proved the impeachment did not abate. For no course of decisions, nor even one authority could be produced for its abating, but the miserable decision of the year 1685, which was to be raked from the ashes in which it had lain ever since it had passed, despised and forgotten by the very men who made it, and contaminated and disgraced by the miserable circumstances which gave it birth, and the disgraceful times in which it happened.

The question had been attempted to be reasoned upon principle, upon analogy, and upon direct authority. Upon the first it was requisite to say little. It was too obvious that the minister who committed a crime deserving of impeachment, would be the first to give himself indemnity by the commission of a fresh crime. With regard to analogy, he would only remark at present, that the foundation of analogical reasoning consisted in proving the admission of a principle in one instance, and drawing from thence an argument, that in similar proceedings, and in like cases, the same principle ought to be admitted. But it was remarkable, that in all the analogies introduced into the present debate, much care had been taken to fly from analogies to other judicial proceedings in the House of Peers, and to apply to supposed analogies drawn from other courts, and other proceedings founded upon other princi-

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ples, and standing in circumstances entirely different and distinct from those in which the two Houses stood with regard to any proceeding before the House of Lords in its judicial capacity. Among other analogies, the gentleman who spoke last, had talked much of bills of attainder and other legislative proceedings, which were unquestionably abated and destroyed by a dissolution. But if there was any analogy between the two cases, the objection to the argument was, that it proved too much. The hon. gentleman lamented the necessity which he, as a friend to the prosecution, was under, in being compelled by this analogy to vote now that the impeachment abated. But unfortunately bills of attainder, like other legislative proceedings, ended with a session, and were destroyed by a prorogation equally as by a dissolution. Where had the hon. gentleman's analogy lain for these four years? Had he been so negligent as not to remark the similarity between impeachments and bills of attainder till now? Or, if he had remarked it, why did he not come forward with his analogy three years ago, convey his knowledge to the House, and inform them that they were prosecuting Mr. Hastings without any authority, because impeachments were like bills of attainder, and ended as they did, with the session of parliament in which they commenced?

He had said that it never had been doubted within those walls that impeachments continued from parliament to parliament. He believed he could affirm that it could hardly be said with fairness, it had ever been doubted any where. Before the question was agitated with any party view, in the case of the popish lords, the great lord Nottingham, a man eminently learned, to whom the profession of the law owed as much as to any man; who had done more to form and improve one branch of our law than all who had succeeded him—this great judge, in declaring the causes of holding the parliament, and speaking for the Crown itself, had solemnly and deliberately been of opinion, that a dissolution made no alteration on an impeachment. Upon the meeting of parliament in the year after the popish lords were impeached, addressing himself to the Commons, he informed them that the King had, during the dissolution of parliament, been applied to to liberate those lords, but that he thought it right to reserve them for justice, and desired the Commons to proceed speedily with their trials, that they might not suffer the miseries of indefinite confinement. Before he directed the Commons to proceed upon the trials, he must have been of opinion that the trials were in existence. When the question came afterwards in the next session to be agitated, it was solemnly settled by the resolution of 1678, that the state of impeachments was not affected by dissolution of parliament, not upon the spur of the occasion, but upon mature deliberation and inquiry, upon following up the principle which was firmly established in the year 1673, and which never since had been controverted.

Much abuse had been thrown upon the times about the year 1678, in which he could not agree. It was true they were times of much ferment, but it was to the fermenting of the great spirit of liberty, at that time, that we owed our very existence, that we owed even our meeting in that House now to discuss the question. That some excesses might have been practised he would not deny, and the particular existence of the popish plot might be a chimera. But the fear of popery and terror for the loss of liberty, were not, at that time, ideal fears. It was to the spirit of our ancestors then, and to the principles which they successfully maintained, that this country owed the Revolution and the existence of the present family upon the throne of the kingdom. But even let the times be what they might, the resolution in question was not tainted by any thing that might be bad in them. It had nothing to do with the popish plot; the question was agitated in the impeachment of lord Danby, impeached for crimes totally distinct from the plot, and decided by a House of Lords certainly not particularly inimical to that minister.

After that period the question came again to be mentioned in the House of Commons. In one of the conferences with regard to lord Danby, the managers, among other things, reported, that one of the lords had put the Commons in mind that they had gained two great points in that parliament, viz. that impeachments continued from parliament to parliament, and that the impeached lord must withdraw. The managers for the Commons replied, that these points were agreeable to the ancient law and rule of parliament. The propriety and truth of

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this answer was, at the time, questioned by no man. He could not doubt what he found above a hundred years ago declared by great and able men, and admitted by the whole House of Commons to be the ancient law and usage of parliament. Upon this law lord Stafford was tried and executed; in his case it was solemnly decided. Much had been said with regard to that trial; the witnesses were perjured, and that unfortunate man had a hard fate: but if the witnesses were believed, the conviction was just: the other circumstances of the trial, and the mode in which it was conducted, were little liable to objection. The form of conducting a trial, the principles which directed it, the questions of law which arose in the course of it were not to be set aside, because the witnesses happened to be perjured, or even because an innocent man had lost his life by their being believed.

About the period when these things passed in parliament, the question had more than once occurred in Westminster-hall, and it was equally admitted there as law, that, impeachments continued notwithstanding a dissolution. Lord Danby and the Popish lords had applied to be bailed: if an idea prevailed of the abatement of the impeachment, their application ought to have been to be discharged. But the court would not even bail them till Jefferies was made chief justice. Upon these cases, and upon the speech made by lord Danby, and the manner in which even he stated the law on the point, he would not say a word, lest he should weaken the effect of the powerful and able observations already made by the greatest authority in that House, the Speaker. He would only remark, that bailing was an affirmance of the commitment, and therefore a direct authority that the impeachment subsisted. Upon looking into the case of Fitzharris, he thought it not only a considerable authority for his opinion, but that there was ground from that case to say that the question had been solemnly determined by all the judges of England. Fitzharris had been generally impeached by the Commons of high treason: no articles were presented against him; parliament was dissolved. He was afterwards indicted for a special treason, under an act of Charles 2nd; he pleaded that he was impeached. In the course of the discussion of his plea, his council often endeavoured to argue that impeachments continued from parliament to parliament; had the law been clearly otherwise, it would have been easy to have told them, what signifies all this argument, the impeachment is gone. So far from it, that the chief justice studiously avoided that question, and when they were pressing to argue it, stopped them by telling them, that the only question before the court upon the plea was, whether a general impeachment for treason, and no treason in particular, could be pleaded in bar of an indictment for the particular treason set forth. In the course of the trial, one of the council for Fitzharris insisted that it had been, after the dissolution of parliament, solemnly resolved by all the judges, that the king could not proceed upon the indictments against the Popish lords on account of the impeachments which were then depending against them; the chief answer made by the then Attorney General was, that this was an extra-judicial opinion. Mr. Anstruther said, he was ready to admit it was extra-judicial, but still it had all the weight of an opinion of the twelve judges, and an opinion which they could not have formed if they had not thought that impeachments did not abate, and that a dissolution of parliament had no effect whatever upon the state of an impeachment.

After all this, it might have been thought that the point was clear; but in the first day of the first parliament of James 2nd, in the moment of servility and adulation, the House of Lords thought proper to reverse the order of 1678, so far as related to impeachments, and next day to discharge the Popish lords. If ever there was a time dangerous to the liberties of this country, it was that period. A weak and bigoted prince upon the throne, a packed and garbled House of Commons almost named by the Crown, in consequence of the violent and arbitrary destruction of the charters of the different corporations, and a people broken-hearted and almost worn down in their repeated struggles with the Crown. Added to all which, had the House of Commons been differently formed from what it was, to proceed with the prosecution was impossible. The principal witnesses were convicted of perjury; yet in such a time, and in such circumstances, even the then House of Peers was ashamed to declare the resolution of 1678 not to be law; on the very day in which that minister of

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wickedness, Jefferies, took his seat as a peer, it was reversed, without putting any declaration in its place, without inquiry, without examination, without the knowledge of the Commons, and without daring to look in the face the very resolution which was attempted to be reversed. The protest expressly stating, that it was not even allowed to be read, though repeatedly called for.

Such a precedent at such a time, and in such circumstances, was now gravely contended to be sufficient to overturn settled law, destroy every principle, and trample upon the privileges of the Commons. But had this case been regarded and followed? The very man who made it deserted it; it had served his purpose and was laid by for ever. Not many years afterwards, in 1688-9, lords Salisbury and Peterborough were impeached: after the dissolution, they applied to the King's-bench to be bailed. Lord Holt was then chief justice, a man of as great and respectable character as ever sat upon the bench, but certainly not remarkable for his great respect for the privileges of the two Houses of Parliament. He was the friend, and had been the council, of lord Danby. In his case he had had opportunity to consider the nature of impeachments; this very question must have been before him, and he could not be ignorant of the resolution of 1685, which had liberated his client. Yet neither the Lords applying to be bailed, nor the court in refusing to bail them, take the least notice of this order. Upon the authority of the case of lord Stafford, which certainly was not law, if the order of 1685 was supposed to have any operation, the chief justice and all the judges refused to bail them; expressly grounding their judgment and resting their opinion upon what had been determined at that trial, as having settled and fixed the law upon the point. Had either the Lords themselves, or their judges, even an idea that the resolution of 1685 had altered the law, is it possible that the one would have totally forgotten in their application to the court, and the other totally neglected in their judgment, a solemn determination made only four years before, and within the positive knowledge of both the parties and the judges?

Upon the meeting of parliament those peers applied to the House of Peers, who, indeed, did appoint a committee to search precedents, and did attempt to involve their case with this general question: but with this question their case had nothing to do. An act of general pardon had passed; a question was put to the judges, whether their case fell within it. The judges were of opinion that if their offences were committed under certain circumstances, they were within the act, and on a subsequent day they were discharged. It is impossible to read the protest, and not to see that the pardon was the ground of the discharge. The protest states the proceeding to be extrajudicial, and without proper parties, and complains that the Commons were not heard, and that even the House had not been attended with precedents of the effect of pardon. Nothing could be more ridiculous than such a protest, if the Lords had been discharged, because the impeachment was at an end; to have heard the Commons would have been impossible; for in that case there could have been no proceeding in existence: to have inquired about pardons must have been idle, because the Lords were discharged upon a separate and distinct ground. But had the precedent been followed since? The same person who had been impeached as earl of Danby was in 1695, impeached as duke of Leeds; he lay under this impeachment for five years, and through several parliaments; how did it happen that he never claimed the benefit of the resolution of 1685? After five years and three dissolutions, the House of Lords took up his case, but they did not declare that it had long been at an end; they acted upon it as a pending proceeding, and "dismiss it, the Commons not prosecuting;" this was a direct authority in the present case. About the same period in the year 1701, lord Holt had again occasion to consider the law of impeachments, &c. deciding a case of Peters and Bunning, reported in 12th Mod. Rep.; he expressly declares "that impeachments upon which some proceedings had been had, and parliament dissolved, may be continued in a subsequent parliament." A late authority, Mr. Justice Foster, expressly states the case of lord Salisbury as being grounded upon the act of general pardon, and reasons from it in a manner which it is quite impossible he should have reasoned if he had been of opinion that his impeachment had been ended by a dissolution. To all these authorities, parliamentary and legal, nothing was to be opposed but

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the proceedings in 1685. Some attempt had been made to argue something from the protest in the case of lord Oxford, in the year 1717, and it was said that it must have been admitted in the debate that dissolution would abate an impeachment. He gathered no such admission from the protest; it was true that it had been asserted by the minority, who, from their own assertion, argued that a prorogation must abate likewise. The protest stated as a fact, a matter notoriously untrue, viz. that dissolution and prorogation equally put an end to judicial, as to legislative proceedings; every one knew that judicial proceedings in the House of Lords abate neither by the one nor the other. If any thing to the present argument was to be drawn from this protest, it was that both sides of the House were agreed, that there was no difference between dissolution and prorogation; and if so, he had a right to argue from the reasoning in that protest, that as a prorogation did not put an end to an impeachment, so neither did a dissolution.

It had been said in the debate, that writs of error and other judicial proceedings had, till the year 1673, constantly abated by a dissolution, and that impeachments must do so too; but at that very time it was equally held, that prorogation abated a writ of error. How then came it that impeachments continued from session to session? If the fact were true, it would prove that impeachments did not in former times abate where writs of error did; or if it were admitted that the analogy was well founded, it would prove that when it came to be held that writs of error did not abate by dissolution, it ought equally to have been held that impeachments did not abate either. But the position that writs of error and appeals in ancient times abated by a dissolution was not well founded, the order of 1673 was not the result of the arbitrary will of the House of Lords, but the consequence of an investigation into what was the ancient course of proceeding in that House. Whoever would look at the cases quoted in the report preceding the order of 1673, or would examine the numerous cases to be found in lord Hale's book, or the rolls of parliament, would see that the ancient course was, to present a petition complaining of an erroneous judgment, in consequence of which, a *scire facias* issued returnable at the next parliament. So far was the proceeding from abating, that in the ordinary and regular course, the party was not compelled to appear and hear the errors till next parliament; and this principle was not confined to proceedings in error alone, but extended itself to every judicial proceeding before the House of Lords, as was proved by a bare inspection of the report in the year 1673.—There was a case in Levinz' Reports, in the 17th Charles 2nd, where it was expressly declared, that writs of error and *scire facias* thereon did not abate by prorogation. About the middle of the reign of James 1st, a practice began which became much more frequent about the time of Charles 2nd, of making writs of error returnable immediately, and making orders of the House of Lords for their hearing from time to time. It was then argued, that as these writs of error, and the appearance of the parties, were supported by the orders of the House of Lords, and as all orders fell with a dissolution or prorogation, the writ of error was gone. In consequence of this reasoning, the courts of law held the writ to be abated; but so far were they from making any distinction between dissolution and prorogation, that all the cases which held these proceedings abated by a dissolution, were grounded upon the case of Gonsalove and Heydon, which was the case of a dissolution. So far, then, these cases were an authority to prove that there was no distinction between prorogation and dissolution as to judicial proceedings.

When the House of Lords found the courts below proceeding in this course, they were driven to investigate the subject, and the consequence was, the order of 1673: that order, it was true, extended only to prorogation; but the principle extended equally to dissolution, and was accordingly applied to that case in the year 1678. These orders again brought the law back to its ancient principle, and judicial proceedings in parliament have ever since, as they had done in ancient times, continued undisturbed by a dissolution. The court in which they are continues the same, the time of its meeting is fixed to a certain day by a prorogation, to an uncertain one by a dissolution; but the court, the judges, and all the proceedings remain untouched and unaltered. Indeed, there was no distinction in law between dissolution and prorogation. Lord Coke expressly says, that every new session is a new parliament; and in

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this he has been followed, without contradiction or dispute, by every lawyer who has succeeded him. So far, therefore, as analogy to other judicial proceedings in the House of Lords could apply, that analogy was clearly in favour of his argument. The present case had been attempted to be compared to abatements at common law by the death of the king, but in order to support this reasoning, recourse must first be had to a fiction, and then to an analogy. There was no possible resemblance between the death of the king and the dissolution of parliament; and even if there were, it appeared to him unfair to reason from it. Abatements of judicial proceedings by the demise of the Crown were in themselves anomalous proceedings; the general rule was, that the king never died, and from this they were exceptions: the argument ought to be drawn from the rule and not from the exception. Every person knew that in early times the profits of the courts of justice formed a considerable part of the royal revenue; to increase this was equally the object of the king and the judges; and the doctrine of abatements was encouraged and extended even contrary to other principles. But, admitting that these cases were not anomalous, and that some analogy might be drawn, still the argument was equally defective: the idea upon which suits abated by the death of the king, was a notion of personal trust and confidence granted by the king to particular judges; the dissolution of parliament, or the calling of another, neither gave nor entrusted any personal confidence whatever. It had been said that commissioners of oyer and terminer and the like abated also by the death of the king, and that their proceedings were at an end by whatever destroyed their commission: there was in these cases, however, not only the notion of personal confidence from the person of the Crown, but the very authority of the judges was conferred, created, and limited by the commission itself. There was no analogy between a commission conferring a special authority, and a writ calling an existing inherent authority into exercise. The calling a parliament conferred no authority; the dissolving it took away none; the rights and powers of the peerage existed independent of the Crown and its powers, and when called into action, they naturally returned to their former state. The calling of a parliament was nothing more than appointing a time for the high court of peers to meet without having the least operation upon its proceedings.

Having done with parliamentary authority and legal analogy, he proceeded to consider the matter shortly upon principle. It was difficult to believe that to be law which appeared so totally destructive of the necessary powers of the House of Commons. Impeachments were of no use if they might be stopped at the pleasure of the person accused; they were naturally directed against ministers, and men often in the possession of power. Could it be doubted that he who had so advised the Crown to misuse its authority as to deserve an impeachment, would hesitate in advising a dissolution to save himself? Would he who had risked every thing in the commission of one crime, doubt about the commission of a fresh crime, to give himself security from the consequences of his former one? There was no period of an impeachment in which it might not be done; the criminal might take the chance of an acquittal, and finding that likely to fail him, save himself by this mode. It was said that he might be impeached again, at least, however, the doctrine went to throw open his prison doors, and put it in his power to elude justice. Was it a thing unknown in the history of England, for a minister to fly from the vengeance of parliament? Was it nothing that the means of escape were put in his power? But suppose he did not fly, did he not return to the new parliament with the same weapon in his hand to defeat and elude the justice of his country. View also the situation of the prisoner: the doctrine now contended for might, in some cases, be equally ruinous to him, as destructive of public justice. Suppose the prisoner had nearly concluded his defence, and was likely to be acquitted, but that his adversaries saw they could convict him if they could new mould their charge, and make use of the knowledge with which the defence furnished them; what was more adverse to the first principles of justice, and yet what was more possible, if the doctrine now attempted to be supported, were to be successful. The length of the present trial had been complained of: but that length must be doubled if it was held that the proceedings abated, unless it was also held that a criminal was to escape merely because it

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had been found necessary in the situation of the country to dissolve the parliament, or because a crime happened to be committed near the period when by law it expired. Upon the grounds, therefore, of parliamentary precedent, legal authority, analogy, and constitutional principle, he was clearly of opinion that the state of the impeachment was not altered by the dissolution of parliament.

Mr. *Pitt* observed, that were he to avail himself of the present moment to state his opinion, he should say, that it was so clear as not to make it fit to have it entered on their journals, that they thought it necessary to appoint a committee to search for precedents, from whence an inference might be drawn, that they had entertained doubts, of the slightest probability of which they ought carefully to avoid the appearance. The question before the committee was of such magnitude and importance; it related to a right which formed so essential a part of their privileges; and involved considerations so intimately interwoven with the permanent foundation of our constitution, that all must be desirous to have an opportunity of giving it a full and ample discussion. When he recollected the number of gentlemen who would speak upon the subject, and who had not yet had an opportunity of being heard; and when it was also well known that those who were considered as the first legal authorities in that House meant to deliver their sentiments, he thought the most convenient method they could pursue, would be to adjourn the debate till a future day; they would by that means, afford those gentlemen who wished to search for precedents, time to consult the necessary documents, and compare the variety of cases stated by his right hon. friend that day with the history and circumstances of the times in which they had occurred. When they should come again to the discussion, the learned gentleman opposite (Mr. Erskine) he hoped, would also be able to resume his speech, which, for a reason that they all lamented, had been abruptly broken off before it was finished. Mr. Pitt now moved an amendment to Mr. Erskine's motion, to add to the question, "That the chairman do leave the chair," the words "report progress and ask leave to sit again."

Mr. *Burke* perfectly agreed with the right hon. gentleman, and thanked him for the suggestion.

Sir *John Scott* begged to ask Mr. Burke a question, relative to the wording of his motion. The right hon. gentleman had stated in it that the impeachment was now depending: did he mean that it was depending in all its forms, or, in other words, *in statu quo*, as it depended before the dissolution of the last parliament? If so, the question seemed to him to be substantially different from the mere consideration whether the impeachment abated, and must be renovated by a particular process elsewhere, not necessary to be then described.

Mr. *Burke* said, that with regard to the word "depending," he could assign no other reason for its being introduced into the motion, than that it was the very word used in the resolution sent up to the House of Lords in the case of the earl of Danby, he therefore thought it the proper word to use on the present occasion.

The *Master of the Rolls* thought the word "depending" wanted some explanation, and suggested inserting after it in the motion, "in all the forms in which it existed in the last parliament."

Mr. *Fox* contended, that the explanation suggested by the master of the rolls would go a great deal farther than appeared to be proper, whereas the word "depending" was sufficient to denote their sense of their own rights, and it would be for the House of Lords to put a construction upon it.

Mr. *Burke* said, that considering this was the first step the House was about to take in defence of their privileges, the word "depending" was sufficient for them to use at present, not thinking they were ripe enough to go farther as yet; but he had no scruple to declare, that his meaning was, that the impeachment was *in statu quo*, for that, he believed, was the proper phrase. When they had carried up the question to the Lords, the next step the House would have to take, must depend altogether on the conduct of their lordships.

The question was put and agreed to.

Dec. 22. The order of the day for going into a committee to take into farther consideration the state in which the impeachment of Warren Hastings, esq. was left at the dissolution of the last parliament, having been read, and sir Peter Burrell having taken his seat at the table,

Mr. *Erskine* rose to resume his argu-

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ment, which had been interrupted by his illness on Friday. He said, that the course and turn which the debate had taken since he had the honour first to address the House, gave additional force to his motion for the search of authorities applicable to the subject. If the House had considered the matter as a mere question of privilege, or of expediency, to be decided by their own will, and not by any rule of law, and upon that footing had considered it, as not depending at all upon any judgments of the House of Lords, such a course of proceeding, however improper, would have been, at least, an answer to his motion. But when from the highest authority in the House (the Speaker) who immediately followed him in the debate, not only volumes of precedents and records had been resorted to, but even common law judgments had been appealed to, which it could not be supposed, the House in general, were in any degree possessed of; it surely was an admission that by such criterions the question was to be judged, and rendered the collection of them consistent not only with reason, but with the common practice of both Houses of parliament, even on the subjects of less novelty and importance. The right hon. the Speaker had admitted that there was no precedent to be found previous to 1678, of an impeachment having survived a dissolution, and therefore not being able to establish that order, on the direct custom of parliament, he had had recourse to the different precedents, which were collected by the committee in 1673, when the question concerning writs of error was before the House; but, besides, that none of these precedents related to impeachments by the Commons, all of them that were criminal proceedings, and not mere writs of error, were criminal appeals, directly contrary to Magna Charta, and the ancient statutes, persisted in, even after the statute 1st of Henry 4th, chapter 14th, and finally declared by the Lords, on reference to all the judges, to be contrary to law, in lord Bristol's charge of lord Clarendon. Such precedents, therefore, even if applicable, could be no legal foundation for the short-lived order of 1678. He had to remark too, that in those cases, the Lords had given a day to the parties, in the succeeding parliament which they had omitted in the present instance, even if they had the power to have given one; by which, according to all authorities, there was an incurable chasm in the proceedings. The party was, without day, in court, and his bail finally discharged from their recognizances, which went only to have him before *that* parliament; he said, therefore, that Mr. Hastings was not bound to appear, nor had the Lords any process, that he knew of, to enforce his appearance.—At all events, none to *continue* the proceedings, which were *discontinued* by no day having been given.—For this he referred to Hawkins's Pleas of the Crown, title, "Discontinuance," where all the authorities were collected.

He now proceeded to pursue the precedents. That of 1673, founded too on the anomalous and illegal proceedings alluded to, declared only that writs of error continued from session to session, and nothing farther was done on the subject till 1678, when the parliament was dissolved subsequent to the imprisonment of the Popish lords, under the pretended plot. The nation, at that time, was wrought up to a pitch of phrenzy concerning Popery, and upon that subject, neither the voice of reason nor law could be heard. The Lords and Commons, the accusers and judges of the lords in the Tower, jointly examined Oates, and came to a resolution of the existence of the plot, on the sole evidence of the person who could give it no existence but by his charge on the prisoners, who were afterwards to be tried before the Peers. He stated this fact to show the disorder and irregularity that prevailed throughout this particular proceeding. On the 12th March, 1678, to give colour to the continuance of the impeachments, which by no resolution before that time had been voted to have continuance, it was moved to declare, that writs of error, which by the resolution in 1673 had been declared to continue from session to session, continued from parliament to parliament; and a committee was appointed to search precedents. This was evidently to give colour to what followed; for only two days after, viz. on the 17th of the same March, without doing any thing on the first order, it was added as an instruction to the committee to inquire also into the state of the impeachments brought up in the last parliament; and in two day afterwards, report was made to the House, that "on perusal of the journal of the 29th March, 1673," which, as had been shown, applied only to the continuance of writs of error from session to session, and without search

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of *any other authority, or statement* of any one principle, they reported that the state of the impeachments brought up in the former parliament was not altered, and the Lords agreeing with this report, made the order of 1678. This order therefore was established upon no antecedent custom of parliament, but stood on a most strained and forced analogy to writs of error, which writs of error it was notorious never did continue from parliament, to parliament, till the existence of the order in question, as appeared by the authority of lord Hale, and lord Coke, and a decision of all the judges. Temp. Charles 1st.

To show that this novel order was made on the spur of the occasion, Mr. Erskine proceeded to show the immediate and barbarous use which was made of it on the trial and execution of viscount Stafford. Lord Nottingham, whose authority had been cited for the continuance of impeachments, was Speaker of the Lords on that trial, and kindly consented that lord Stafford should have counsel, provided they did not stand near enough to prompt him, and the aged and infirm prisoner was refused the right of arguing the question, whether his impeachment had not abated. Perhaps, however, the managers of that day were right, when they objected to the admissibility of such argument, the existence of the order of 1678: but for that very reason, if a good one, the argument now turned the other way, since the reversal of that order of 1678, by that of 1685. He then stated that reversing order, and the language of it was to be attended to. It was not a resolution either in the abstract, or in a particular instance, that impeachments abated by the dissolution of parliament, leaving the order of 1678 still standing as an existing resolution, which might have left future times to cite one judgment against the other, as they happened to be most consonant to the opinions of those who adopted the one or the other in argument — No, the order of 1685 entirely cut down and annihilated the former; the words of it were, "Resolved, that the order of the 19th March, 1678-9, shall be reversed and annulled as to impeachments."

If the Lords had jurisdiction to make the order of 1678, they had surely jurisdiction to unmake it; as the first stood on no antecedent custom or rule of practice; and therefore while the order of 1685 remained in existence, the matter was not debateable, and the Lords (let the Commons vote what they might) could not, without an act of violence and caprice, refuse the benefit of it to any man standing before them in judgment. The question, therefore, was, whether the order of 1685 was in force? As to that, he said, it stood *to this hour* on the Lords' journals from the time it passed, and no impeachment had continued from parliament to parliament. Persons impeached had, as would appear, been discharged from imprisonment on the footing of its existence, and under its direct authority; and the Commons, neither when it was passed, nor subsequently acted upon, had ever made the smallest objection of any invasion of their privileges, or invasion of the law.

Before he left the order of 1685, he took notice of lord Anglesea's protest against it, stating, among other reasons, that it repealed the order of 1678, which was agreeable to the practice of all former times. Mr. Erskine said, the assertion was as indecent in lord Anglesea, as it was false; for it appeared from the Commons Journals, that this very lord Anglesea, who was manager for the Lords in 1678, told the Commons at the conference in the painted chamber, that in the continuance of the impeachments, the Commons had gained a great point, which though not admitted by the Commons, showed the sense of this protesting lord upon the subject. From one part, however, of lord Anglesea's protest, a good principle might be collected; for he insisted that the Lords, as a court of law, ought to abide by rule, that the subject might know how to apply for justice. His argument was good, but his facts against him.

Having discussed these two precedents of 1678, and 1685, he said that the true way of settling their authorities was, to examine what was done by the lords themselves, and how they regarded them, the first subsequent time that the point occurred; *and, also to observe how the Commons behaved on the same occasion.* The next precedent, then, was of the lords Salisbury and Peterborough, who were impeached of high treason in 1689. Parliament was dissolved in the beginning of 1689, and a new one met in the same year. In 1690 these lords petitioned to be discharged from their imprisonment, stating the dissolution of the parliament, and also a free and general pardon. The

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operation of the pardon was referred to the judges; and on their answer, the question being put for their discharge from imprisonment, it passed in the negative; and being then admitted to bail, they remained subject to the impeachment, till they were discharged wholly upon the search of precedents, and on the order of 1685. This would be evident to whoever would look at the Journals, though it was not easy to show it to two hundred persons, who had not the precedents, *and who refused to look at them.* After the answer of the judges, the matter of pardon was never discussed again; but the lords assembled on the general question of the continuance of impeachments; a committee having before been appointed to search precedents on the subject. It appeared by the Lords' Journals of the 30th of March, 1690, that the committee on that day, reported, "That they had examined the Journals of the House, from their beginning in the 12th of Henry 7, and all the precedents of impeachments since that time, which were in a list in the hands of the clerk, and also all the precedents brought by Mr. Petyt from the Tower, among all which *none were found to continue from one parliament to another*, except the Lords, who were lately so long in the Tower," alluding to the popish lords who were kept there under the order of 1678, and afterwards discharged under the order of 1685, which annulled it. It was upon *this report*, and not on the footing of pardon, that lords Salisbury and Peterborough were discharged. The entry mocked all argument; it was only necessary to read it. The words were, "after consideration of which report, and reading the orders made the 19th of March, 1678, and the 22d of May, 1685, concerning impeachments, and long debate thereon, it was resolved that lords Salisbury and Peterborough should be discharged from their bail;" and they were discharged accordingly. What farther showed that the pardon was no ingredient in the discharge, if the state of the proceeding were not in itself conclusive, was, that the pardon could not have destroyed the impeachment, even supposing the parties to be entitled to it; but must have been pleaded before the lords in bar to it, and on which the Commons, according to every rule of law, as well as the most inveterate custom and privilege in impeachments, must have been heard. Nothing remained to be said on that case but the conduct of the Commons. Their impeachment was put an end to, and the prisoner discharged without consent, message, or communication: and by a direct affirmance of the order of 1685, made on the face of the Lords' Journals; *yet no resolution was come to in this place, nor any objection taken by any body*, though this happened when the Commons were in high strength, and in the very day-spring of the revolution.

Before leaving this precedent, Mr. Erskine stated an additional proof, that the Lords acted on the order of 1685; for that it would appear, and which he did not know himself till after coming down to the House, though he had searched, as he thought, diligently, and which was an additional reason for deliberation on such a complicated subject, that a committee to search precedents had been at the same time appointed, on the motion of other persons impeached, and who were also discharged soon after, and on the precedent of lords Salisbury and Peterborough. This was the case of sir Adam Blair, Mole, Gray, and Elliott, who had been impeached about the same time with the two lords. A committee was appointed to search precedents, on their application to the House of Lords; and after continuing on bail, till after the discharge of lords Salisbury and Peterborough, *they were also liberated without communication with the Commons, and without any subsequent objection or dissatisfaction;* though all these proceedings were of the most public notoriety, and could not be unknown to the House of Commons of that day.

The duke of Leeds' case in 1701, which followed next in order, and which had been relied on as in favour of the continuance, he said he thought made quite the other way. After the articles had been brought up, and towards the close of the same parliament, the lords had, by message, reminded the Commons of their impeachment, and told them the session was drawing to its close. Soon after the parliament was dissolved, and on the meeting of the new one, the lords, without any new message to the Commons, dismissed the articles, entering on their Journals, that in the former parliament the duke of Leeds had been impeached, articles brought up, and answer put in; but that the Commons not prosecuting, he was discharged. This failure of pro-

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secution must have applied to the *expired parliament*; for if the impeachment had continued to the new one, a new message should have been sent, before the articles were dismissed for want of prosecution, according to a privilege always insisted by the Commons, that the Lords, on an impeachment, can take no step, *but in their presence*. The discharge was clearly, therefore, because the jurisdiction of the Lords was at an end, and not an act of judicature on a subsisting impeachment, as the Commons never made any complaint, as they did when lord Somers was acquitted *in their absence*.

He then took notice of the cases of lords, Somers, Oxford, and Halifax, where the entries were similar to that of the duke of Leeds, and open to the same observation, and then came to the last and only remaining precedent, of the earl of Oxford, in 1717. That precedent, he said, established, beyond all question, what effect a dissolution was then supposed to have on an impeachment; for if it had then been doubted, much more if it had been denied, that a dissolution would destroy an impeachment, it was extravagant to believe that lord Oxford could have been advised to build a petition to be discharged, on the intervention of a prorogation only, even if a dissolution had been taken to be ineffectual; and still more improbable that the lords would have seriously entertained it, and searched for precedents on the subject. It was true that it was decided that the intervening prorogation had not terminated that impeachment, but the language of the lords who protested against the decision, demonstrated that there was but one opinion concerning the effect of a dissolution; for if the lords who voted against the effect of the prorogation, had built their opinion on the denial also of the effect of a dissolution, the protesting lords must have seen that the vote had been given on the reversal of the order of 1685; whereas they say, that as they, in opposition to the other part of the House, could see no difference between a prorogation and dissolution, they were afraid that the vote would tend to weaken the order of 1685; a language perfectly absurd, if they had conceived that the vote had been grounded on a reversal of it. The language of the protest was therefore plainly this, "We are all agreed about the effect of a dissolution, which is the settled practice; but this vote against the effect of a prorogation, which we cannot distinguish from a dissolution, may bring even that point into doubt, which was not meant to be questioned."

He then took notice of the cases at common law which had been cited, particularly the case in Carthew, where lord Holt was supposed to have decided that impeachments were not abated by dissolution. That case, he said, was an application by lord Salisbury to the King's-bench to be bailed before the parliament met; and he was properly told by the King's-bench, that being impeached of treason, he was not within the act of Habeas Corpus, and therefore not being, *de jure*, bailable, the rest was, of course, matter of discretion. The court, indeed, then took notice that *commitments* of the lords continued, notwithstanding a dissolution of the parliament. But the case cited for that doctrine was lord Stafford's, *which was while the order in* 1678 *remained in force*, which beat down all subordinate or collateral opinions; and besides that, the House of Lords, which alone had jurisdiction to decide upon the existence of the articles, made the decision, on the meeting of the parliament, in the very instance of lord Salisbury, and without a murmur from the Commons, finally discharged that very impeachment which had been the subject of lord Salisbury's application to lord chief justice Holt—lord chief justice Holt's opinion, therefore, on a collateral point too, and where the King's-bench had no jurisdiction, could never be opposed to the judgment of the House of Lords, which had jurisdiction, and which decided the very point in the very instance for which lord Holt's opinion was cited. He rested, therefore, his argument on the principles he set out with; the judgments of the court competent to decide, and an acquiescing legislature; nay, what was stronger than both, *acquiescing accusers*: for, besides that it had been admitted that no impeachments before 1678 appeared to have been continued from parliament to parliament, the case of the duke of Buckingham, in the time of Charles 1st, showed the sense of the Commons themselves on that subject. They had impeached the duke, who had become universally odious: apprehending the loss of their proceedings by dissolution, they had sent a remonstrance to the king on the subject; but the parliament was, never-

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theless dissolved—The new one met equally revengeful against Buckingham; yet instead of going on with the impeachment, they addressed the king to remove him from his councils, on the imputation of the crimes charged by the former articles; but the impeachment was never mentioned again, not even in the debate—He said that it was worth observing, too, that lord chief justice Coke sat in that parliament, who had been removed from his seat in the King's-bench by Buckingham, and who had also made him sheriff, to prevent his return to parliament; yet it never occurred to that great lawyer, with all his resentments about him, to consider the prosecution as existing.

Mr. Erskine having finished the statement of the precedents, remarked, that they all went to the utter extinction even of the articles in the Lords House, by the dissolution of parliament, without the right of proceeding, even *de novo*, on the trial; for that in every one of the precedents, the articles had been only carried up, and no proceedings had been had in the original parliament which had received them: and even the solitary order of 1678 had not declared that an impeachment in part proceeded upon, remained in *statu quo*, to be taken up again without a re-commencement of trial; so far from it, that it appeared to be worded to repel such a conclusion; for though, in the very same order, the lords had declared, in the abstract, that writs of error, on which no trial could exist at all, to be broken and divided, continued from parliament to parliament; yet, in the next line, when they came to *impeachments*, they studiously changed the style, and instead of declaring generally that impeachments also continued from parliament to parliament, they only resolved that the dissolution did not alter the state of those impeachments brought up in the preceding parliament; a declaration which, as no trial had begun on them, could not be brought to bear upon the present impeachment.—Leaving, therefore, the question of the total abatement to rest, for the present, upon the authority of the precedents only, though they might, in his judgment, be fortified by solid principles of law, a much greater question lay behind, which the resolution, though its meaning was avowed by its supporters, did not distinctly express, viz. Whether supposing the articles themselves did still remain of record untouched by the dissolution, *the proceedings upon them* existed in *statu quo*? a position not only without support *from any one precedent*, but he thought repugnant to every principle of English justice.—The particular convenience or inconvenience of Mr. Hastings, as to this particular trial, had nothing to do with the argument. He would examine it as it must affect the public and future ages.

He said, that in order to decide upon both the questions, i. e. either upon the existence of the impeachment at all after a dissolution, or its existence in *statu quo*, if it still remained, the principles of English criminal law, and the rules of criminal trial in other cases, should be considered; because the constitution, in permitting the existence of a court of impeachment, as a supreme criminal court for high and extraordinary occasions, could never have intended that it should bring all the other laws into disrepute, by an avowed departure from their principles, or deprive the subjects of England of the great protections of English justice, applicable to every other occasion.

The following are the short outlines of this part of the argument.—He admitted that the nature of the trial by impeachment deprived the accused of many advantages which the law had provided for the safety of accused persons in all other cases; and that therefore the reasonings from other proceedings would not closely apply; but that in the absence of precedents, he thought that the universal securities and sanctions of justice ought not to be farther violated, *than necessarily and unavoidably flowed from the very frame and constitution of the court*; and that in considering whether the impeachment at all continued, or if continuing, could go on in an uninterrupted course, the House ought eternally to keep in view the general principles of English criminal law and justice, and to apply them as far as precedent and sound analogy would support the application. He said he would bring in review before the House, the anxious solicitude of the constitution, which was but another name for the law, to protect persons accused from all vexation and oppression. The provisions which he would enumerate, and which his whole life was spent in seeing carried into daily effect, constituted the great characteristic of English liberty, established for ages, and which other nations were now strug-

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gling, through blood and confusion, to obtain.—It would be found, he was afraid, that an impeachment continuing, as was proposed, and insisted on, violated them all.

The first security was, that persons accused should be brought to a speedy, or rather an immediate trial, to avoid long imprisonment, and the anxious miseries of a doubtful condition. This was amply provided for by the act of habeas corpus, which enabled a person arrested to call upon his accuser to bring forward his indictment the first session after his imprisonment, and to try him on it at the next; on failure of which, he was, in the first instance, entitled to bail, and in the last, to a final discharge from the accusation. He said, that if some limitation had not applied to an impeachment, by its being a proceeding confined to a parliament, it appeared strange that the provisions of that second Magna Charta had not been extended to that case, or at least some convenient limitation enacted, consistent with that species of proceeding; for if impeachments might continue beyond one parliament, they might continue for life, and operate to perpetual imprisonment; and the liberty of the subject would no longer depend on the law, but on the will of one branch of the legislature.

The next great security was, that the persons appointed to try, were to be purged from all bias and prejudice, by the challenges of the prisoner. It was true, that the constitution of the court, where the judges sat by inheritance, or creation of the Crown to a certain degree, ousted this great privilege; but in one parliament, or in the course of trials in general, its operation in so large a body could not be very dangerous: but if it could continue from parliament to parliament, without limitation, the party impeached might come at last to be judged by strangers to his impeachment, and what was worse, even by his very accusers; who, coming up from the other House by succession and creation, would judge upon property and life, on their own accusation; yet without the possibility of challenge or objection from the accused. The law of England could never mean to subject any of its subjects to such a horrible inquisition. If, at the time of the Union, the legislature had thought that an impeachment could have had such continuance, it seemed reasonable to suppose that a clause of disqualification would have been introduced, to prevent the peers of Scotland from sitting as judges on trials, the first parts of which they by no possibility could have heard

The last great rule of English trial was, that the trial, once begun, should go on without alteration or separation, to prevent impressions from any source but the evidence; that the evidence should be given by the witnesses in presence of the prosecutor, the prisoner, and the court; and that the verdict should be given on the recent view and recollection of it. Here again, the frame and constitution of the court of impeachment, to a certain extent, deprived the subject of these valuable privileges. But still, considering it as a trial in one parliament, the evil, though to be lamented, had its limits. The prosecutors were the same: the court nearly so; and the evidence might, during adjournment, or even prorogation, be, with the aid of notes, recollected; but what was the case when the parliament was dissolved? It could not be said that the pendency of an impeachment should deprive the people of the free choice of their representatives; yet not one member, of the former parliament might return, by election, to the new one. How, then, was such new House of Commons to proceed?

Suppose the former parliament to have been dissolved just when the accused had made his defence, and while the evidence on which his accusation rested was fresh in his own memory, and present to the recollection of the managers and the Lords, he had rested his whole defence on observations on that evidence, without calling witnesses; appealing to the honour of the managers for the truth of them, as well as to the justice of the House. Suppose, when he had thus finished, and had impressed even the Commons themselves with his innocence, the parliament had been dissolved; how, he said, could such a trial proceed in *statu quo*? Were the new Commons to reply to the prisoner, whose defence they had never heard? or was the prisoner to make it over again, when the foundation of it was forgotten, in order that the new Commons might hear it? And supposing he could do it, his defence would still be observations on evidence which the managers had never seen, and of which there was no record, and which, even if recorded, would be written evidence, contrary

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to the genius of English law. Suppose even an interval of years to exist, which might often happen, between the giving of the evidence by the witnesses in one parliament, and the hour of deliberation and judgment in the next; and in a case, too, where a judgment of guilt or innocence might absolutely depend upon the most accurate recollection of the proofs; in what situation would the Lords and Commons stand upon such an occasion? The Lords who had sat from the beginning of the trial, must judge wholly from the unjudicial notes of a sleepy clerk, and with but a feeble recollection of the oral testimony; and the new Lords, open to no challenge, could judge from no other possible source, never having even seen the witnesses who delivered it. And in the same blind manner must the Commons demand judgment against a person whom the old Commons, who had heard the evidence, might have acquitted. He said, by such rules of trial, he would not destroy the life of a sparrow, or even pluck a feather out of his wing. He should be glad to hear what the judges, as well as the Lords, would say to the case of a peer, indicted for murder in the King's-bench, and whose indictment was brought up by *certiorari* for trial, as it must be, into the Lords' House: if, pending such a trial, and when the most important witness was under cross-examination, the parliament were dissolved, would the witness be set up again, a twelvemonth afterwards, to go on with what he had been saying the year before? or would the trial begin *de novo*? He would rest this part of his argument on the answer which the Lords and judges would give to that judicial question, where the Commons could have no pretence of privilege; and if it were answered, that the trial should begin *de novo*, he wished to know upon what principles a Commoner should be exposed to dangers on an impeachment, which could not belong to a peer, on an indictment for the highest crimes?

Mr. Erskine, in the same manner, supposed the interruption of the trial by dissolution, at all the different stages in which it might be so interrupted, and endeavoured to show the injustice that might flow from each instance. He said, that the closest analogies of law condemned this division of a trial; for that before the statute of Edward 6th, when the king died during a trial by indictment, even after conviction, no judgment could be given on that trial. All the proceedings fell to the ground, and the party was put to plead *de novo* on the indictment, still remaining of record. For this he cited lord Coke's Reports.

Mr. Erskine concluded these and other observations, by saying, that in the lapse of seven centuries, no criminal trial in any court had ever been interrupted, and taken up again *in statu quo*; nor had any one impeachment ever been so continued from one parliament to another, *nor before the hour in which he was speaking, had such a position been ever hinted at by any historian, or asserted by any man living, in or out of parliament.* Upon all these observations, he desired, however, to build but one conclusion, which he hoped would not be thought immodest or assuming by the House. He did not desire to make them a foundation for negativing the resolution, but only offered them to show that the subject was as doubtful as it was momentous. He should be sorry to be driven to give his opinion upon it, before he had farther considered it; though if he was, he must follow the best light he had on the subject.—That to obtain a few days for such deliberation, both for himself and for the House, was the single object of all he had said.—He concluded with observing, that if the House fell in with his proposition, and the resolution was afterwards voted, it would carry with it all the additional weight which the interval of deliberation would carry in public opinion; whereas if it was precipitately brought to a conclusion, though the first glare of the triumph of privilege might give it eclat and popularity, it would not carry the same weight, when the eye of history, in future times, came to be turned upon their Journals. He then moved, "That sir Peter Burrell might leave the chair, report progress, &c."

Mr. *Pitt* requested the attention of the committee in that early stage of the discussion, while he submitted to their consideration his solemn and deliberate opinion upon the question at issue, the decision of which involved in it considerations of the first magnitude: the rights and privileges of parliament were concerned, which must remain ever inviolably sacred, or our valuable and excellent constitution was subverted and destroyed. Notwithstanding such display of ability, learning, and eloquence, on the part of the learned gentleman opposite to him, his arguments, however ingeniously and

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orcibly urged, did not impress his mind with that conviction which effected any change in his sentiments upon the point in question. Precedents had been consulted, with the laborious industry, no doubt, of many months investigation, by several hon. and learned gentlemen; but those adduced, upon the present occasion in favour of impeachments abating upon a dissolution of parliament, were in number so few, and of such questionable authority in his opinion, as clearly to evince the imbecility of the cause, without the most distant reflection upon the abilities of the learned advocates who supported it. After the most diligent and accurate investigation in his power, of the subject under discussion, after deliberating for a length of time upon almost every possible ground on which it might be argued, he was come prepared to deliver his sentiments, how far impeachments were affected by a dissolution of parliament.

The first point, he said, which claimed the attention of the House in discussing the subject under their consideration was, to ascertain if any evidence existed of an uniform established practice observed by both Houses in their conduct of impeachments, which was to be considered as the law of parliament in such cases. If there were precedents which clearly established the point, that, from the usage of parliament, impeachments did abate by a dissolution, he would bow in silence to the authority, but would lose no time in providing a remedy against a practice whose tendency was hostile to the privileges of the House, and destructive of the liberties of the country. The authority of such precedents no one would say ought to be relied upon in preference to that of the fundamental principles of the constitution. But he was happy to find that there existed no evidence of such an uniform rule of parliamentary practice. From a dispassionate review of the different precedents, he was prepared to assert with confidence, and the sequel he trusted, would abundantly justify the assertion, that impeachments did continue *in statu quo* from parliament to parliament, notwithstanding the precedents so much insisted upon by the hon. and learned gentleman in support of an abatement of such proceedings by a dissolution. That impeachments did not abate by a dissolution of parliament, was a principle sufficiently recognized and well established by many precedents in our history from the early times of antiquity. Cases perfectly in point might be adduced from the reigns of Richard 2nd, and others; but he should only insist upon the case of the duke of Suffolk in the reign of Henry 6th, which indisputably proved that impeachments continued from one parliament to another. In his investigation of precedents, however, he did not mean to confine himself to the more doubtful decisions of antiquity, but should advance to more modern times, and advert to instances better ascertained and more applicable to his purpose. By the resolution of the Lords in the year 1673, writs of error and petitions of appeal were made to continue from parliament to parliament, but it was contended, since no mention is made of impeachments in this resolution, that a dissolution of parliament operates an abatement of such proceedings. Now the very opposite conclusion was deducible from the report of the committee, which expressly stated that "writs of error, petitions of appeal, and other business of a judicial nature," ought not to be narrowed in their discussion, but to extend from parliament to parliament. Impeachments, therefore, as judicial proceedings, do not necessarily abate by a dissolution. But in the order of 1678, impeachments are expressly mentioned, in common with writs of error and petitions of appeal, to continue from one parliament to another. To this precedent, however clear and decisive, objections are taken in order to invalidate its authority. First, it was affirmed to have been a very precipitate proceeding. But how can this objection apply? Did it refer to any new matter not included in the former resolution of 1673? Clearly not. This order was only a deduction from the principles already laid down in the former decision; it could not then be a precipitate measure. But the critical juncture of affairs, during the ferment of party violence and of civil contention, might probably, it was said, contribute materially to that resolution which authorized the continuance of impeachments. This objection, too, must vanish the moment the circumstances of the times, when the decision in question took place, are contrasted with those of the subsequent period when it was rescinded. In 1678, the proceedings of the Lords were not influenced by any particular reference to some matter then depending; it was a general order, that writs of error, petitions of appeal, and impeachment, should survive a

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dissolution of parliament. Nor was this measure the production of any party violence or animosity; it was an unanimous decision founded upon the resolution of 1673, to serve as a standing precedent for the conduct of future impeachments. But what was the case of the reversal of this decision in 1685, so much depended upon as a precedent in favour of the abatement of impeachments by a dissolution? Was it not at the era when James 2d, a bigoted and popish prince, had ascended the throne of these realms; when the parliament was obsequiously devoted to the will of the monarch; when the sacrifice of principle was required to be made to practical abuse by the prejudices of the times; when certain popish lords were about to be solemnly impeached who were the supposed favourites of the king? Under such circumstances, what was the conduct of parliament? They very probably thought that compliance was better than resistance at such a period; and therefore they determined probably with the best intentions, to rid themselves of the impeachments in contemplation, by rescinding the order of 1678. The professed object of this reversal, then, was to screen the nobleman in question from the impending danger of impeachment. He then would ask, against which of the decisions the objection, taken from the circumstances of the times applied most forcibly; whether to the order of 1678, or to its reversal in 1685? Unquestionably the latter. The hon. and learned gentleman had therefore ably and succesfully argued against himself; since by this objection he had clearly proved the one decision a good precedent, but its reversal a bad one. So much for the precedent of 1685.

The next objection to the order of 1678 was taken from the case of lord Stafford. But how could this instance invalidate the authority of the precedent in question? Because it afforded the learned gentleman an opportunity of appealing to the passions, that from his eloquent and pathetic description of the trial, conviction, and execution of this unfortunate nobleman, the committee might infer the injustice of the principle of continuing impeachments. But was that a legitimate and conclusive argument? Would not such reasoning prove adverse to the cause he attempted to establish? For, admitting the parliament, in this instance to have acted improperly by continuing an impeachment, might not another parliament be equally culpable in dispensing with the continuance of such a proceeding? Suppose a delinquent impeached, and the charges of crimination alleged against him gone through, a dissolution of parliament takes place; would it not prove the extremity of injustice to stay the proceedings in such a House, by which the defendant would be precluded from entering upon his defence, and judgment of crimination or acquittal could not pass without a renewal of the proceedings *de novo*? His innocence or guilt must remain a subject of much doubt and suspicion. Would it not therefore be infinitely more expedient and proper for the honour and reputation of both parties, that such proceedings, conducted by one parliament, should be resumed *in statu quo* by another? Upon such a liberal principle the accuser would have every fair opportunity of making good his charges; and the accused would have equal liberty to establish his defence. Nothing short of this procedure could deserve the name of public justice. What! because the fate of one nobleman, from the continuance of impeachment, was supposed hard and oppressive, did it therefore follow that the exercise of such a privilege of the Commons in every instance, would be attended with the same obnoxious consequences? If the abuse of an institution was a valid argument of its inutility, the objection might apply; otherwise the hon. and learned gentleman's pathetic expostulation would go for nothing; for in deciding upon the merit of a dry precedent, our passions ought not to interfere with our judicial deliberations. The validity of the order of 1678 stood therefore unimpeached; a precedent which neither eloquence nor sophistry can possibly invalidate.

The case of lords Salisbury and Peterborough, adduced as a precedent in favour of an abatement of impeachments by a dissolution, is equally unfortunate: for there does not appear from the proceedings, any reference whatever, either to the order of 1685, or to any former decision upon the subject. The impeachment in question abated, not by virtue of any usage of parliament, but by the operation of an act of general pardon. The impeachment of sir Adam Blair and others, did not apply; since no attempts were made to renew the prosecution, and they had been held to bail subsequent to a dissolution. Now, if the proceedings had

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abated in consequence of that event, the parties could not have been held to bail afterwards: the impeachment having determined, they must have been dismissed. —But as the proceedings were pending, unaffected by any dissolution, the parties were bound in a recognizance. The only just inference, therefore, from this case, clearly was, that impeachments did not abate in the manner it had been contended, by a dissolution of parliament. The same conclusion was evidently deducible from the impeachment of lord Danby; for there cannot remain any doubt as to the sentiments then entertained by parliament; since he was clearly dismissed upon this principle, because the Commons had declined the prosecution. Now three dissolutions of parliament had obtained before he was discharged. It was evident if a dissolution operated an abatement of impeachments, lord Danby must have been dismissed upon the first dissolution; nay, he would have been, upon that principle, discharged of course. But the case was quite otherwise; for parliament was repeatedly dissolved, and lord Danby was as often detained, until at length, the Commons declining to prosecute, he was discharged; so that the impeachment in question abated by the act of the Commons, and not by the operation of a dissolution. In the cases of lords Somers, Halifax, Portland, and the duke of Leeds, impeachment abated in the same manner; the Commons not prosecuting, the parties were severally discharged. Now, on which side of the question did the weight of evidence from precedents preponderate? Did not the scale fairly incline in favour of the continuance of impeachments from parliament to parliament? The right of the Commons to prosecute an impeachment, until judgment was obtained, in his opinion, was clear, unequivocal, and indisputable, from the authority of such a body of precedents.

After investigating the evidence to be collected from precedents, the practice of parliament, during the last three years, was the next object of inquiry, in the present discussion. Parliament exercised two powers,—legislative, and judicial, which had their separate and distinct limits and duration. The confusion of these powers was the principal source of all the doubts upon the present question. Lawyers had differed as much in their opinions respecting writs of error, and petitions of appeal, as upon impeachments; from such collision of opposite sentiments, much satisfaction could not be expected. A reference should, therefore, be made to the clear and established principle of the constitution, in order to remove every cloud of doubt or difficulty. Every act of legislation, it was well known, was terminated by prorogation as well as by dissolution; but no judicial act was influenced by either. Impeachment, therefore, being a judicial proceeding, could not be affected by prorogation or dissolution. In the case of writs of error, and of petitions of appeal, the process continued from session to session, and from parliament to parliament: much more necessary was it that the proceedings in an impeachment should also continue; for in the one case, there was only one individual against another, but in the other, the House of Commons, and all the Commons of Great Britain, were parties against a state delinquent. The impeachment in question was not the act of the late parliament, but of the whole Commons of the realm; the proceeding being in the name both of constituents and representatives. It had been asked, if the House of Commons, in this instance, were the attornies of the people? In one sense they were considered as agents, consulting their own judgment and discretion, in the protection of the interests of their constituents. But they were not the attornies of the people, as agents delegated with power to act merely by the instructions of their constituents. Such an acceptation of the term should have his heartiest abhorrence and reprobation. An impeachment had been commenced by the Commons in the persons of their late representatives; such a proceeding ought not to be discontinued without due inquiry and deliberation; for the House stood in a similar situation with the successor of the king's attorney-general, in the present instance, who was always required to proceed with all the trials already commenced on the part of the king. But in law, it was said, there was no such body as the Commons of England recognized: but would any one draw such an absurd inference from an accidental omission, that such a body had no real existence, which was to be regarded as the principal object of legislation in every civilized country? Our ancestors had, in their accustomed wisdom, sufficiently, in his opinion, guarded against such a sup-

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posed solecism in politics; by ordering all supplies to be granted in the name of the Commons, as well as all impeachments to be laid in their name; when once a proceeding, therefore, assumed a judicial form, its existence no longer depended upon the persons who were immediately concerned in its institution. The House of Commons were only the legal organ of instituting impeachments, as the attorney-general was of filing an information *ex officio*, or an indictment in the name of the king. The public prosecutors in the one case were the Commons of the realm, and the king was the prosecutor in the other. From the consideration of the capacity in which the House, as a judicial and not a legislative body, acted in the conduct of impeachments, it therefore followed that their proceedings, by the constitution, could not abate or be effected either by a prorogation or a dissolution of parliament.

His next ground of evidence in the discussion of the question, to which he requested the attention of the committee, should be taken from the decisions of the courts of justice, and the authority of eminent lawyers. The authority of the great and venerable lord Hale was to be distrusted in the present instance, since writs of error, petitions of appeal, and impeachments, were considered by him as legislative, and not judicial proceedings. Now, all the legislative proceedings unquestionably abated by prorogation as well as dissolution; but impeachments, writs of error, and petitions of appeal are judicial proceedings which continue from session to session, and from parliament to parliament. The error of lord Hale proceeded from his confounding the legislative with the judicial power in parliamentary proceedings. This mistatement appeared from a passage which he here read to the committee, in which writs of error, petitions of appeal, and impeachments, were said to abate, as well by prorogation as dissolution. Lord Holt entertained a different opinion upon the subject, since he had argued from the case of lord Stafford, as a weighty and irrefragable precedent in favour of the continuances of impeachments and other judicial proceedings, from one parliament to another. Lord chief baron Commyns, an authority of the highest respectability in the courts of justice, was also decided in his opinion upon the subject; for, from a passage which he read out of his Digest, it appeared not only that impeachments continued, but that they should be resumed and prosecuted, until judgment was obtained, notwithstanding any contingent interruptions from either prorogation or dissolution. The authority of the legislature too, in the preamble to an act of the 13th of the king, by implication, was also favourable to the point he endeavoured to establish; besides many cases from Carthew's Reports, and other authorities, might be adduced, which abundantly proved it had been long held that impeachments were not affected by the operation of a dissolution. If such proceedings had abated, in consequence of such an event, it was evident that the course of public justice would be greatly interrupted. But there was neither precedent nor law which authorized such a deduction; and the continuance of impeachments was frequently rendered indispensably necessary, in order to produce a salutary operation, and to guard against their abuse. If impeachments were allowed to be a branch of the judicial power, they must necessarily have the same operation with the other acts of that power. Writs of error, petitions of appeal, as judicial acts, survived prorogation and dissolution; so also ought impeachments. To admit the continuance of the former, and to insist upon the abatement of the latter, by the operation of a dissolution, were the grossest absurdity: since, as judicial proceedings, they were branches of the same power, and their connexion depended upon a permanent union of principle. Those who insisted upon the abatement of impeachments, were consistent, if they also insisted upon the abatements of writs of error and petitions of appeal; but when once the continuance of the latter was allowed, and the abatement of the former contended for, in consequence of a dissolution, then it was evident that impeachments were made, in one instance, a branch of the judicial power, and in another, an act of the legislative, to serve some particular purpose. Now such confusion of the two parliamentary powers he had noticed should be studiously avoided, lest their proceedings were impeded by endless doubts and difficulties, and might terminate in a great oppression and injustice to individuals, and eventually tend to subvert our excellent constitution. The power of impeachments is a privilege of the first consequence to

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the liberties of the country; it operated as a salutary check upon those in administration, and effectually guarded against every undue influence of the Crown, in the protection of state delinquency. Ought the event of an impeachment, then, to depend upon the operation of a dissolution? No. If the exercise of this power were once to be influenced by such an event, there would be an end put to official responsibility; the most flagrant acts of corruption, oppression, and injustice, would pass with impunity; for the party impeached might procure, by his own interest, or the influence of his friends, a dissolution of parliament, in order to escape the punishment his offences might justly deserve. Voluntary exilement, were, indeed, too heavy a punishment for injured innocence to endure, to avoid an unjust impeachment; but for the guilty delinquent to enjoy such an indulgence, would be no punishment, but rather a reward, for his villany. The abatement of impeachments, therefore, by a dissolution of parliament, would throw an insurmountable obstacle in the way of public justice, and would deprive the House of a power the most formidable to a corrupt administration, whose exercise served as a shield and bulwark for the constitution.

As to the hon. and learned gentleman's objection, that no man can be a judge, *de jure*, in a court, without a competent knowledge of the whole proceedings; this was true, in an inferior court of judicature, but was not applicable to the House of Lords: for this supreme court of judicature was liable perpetually to change its members in consequence of death, which naturally produced others as their successors. Supposing the new members were ignorant of the proceedings already had of the impeachment depending, what inconvenience could arise from that circumstance, when copies of the whole evidence were printed? They need only refer for the requisite information to the Journals. They had a right to judge from the minutes, upon the fidelity and accuracy of which they might always depend, since they were distributed not only among those peers who were present at the taking of the evidence, but among those who were absent, for their information. An impeachment was an extraordinary case, which did not admit of being conducted upon the same rules with an inferior court of judicature. In the one case, judgment was formed upon printed evidence; but in the other, *vivâ voce* evidence was certainly requisite. Were the rules of the court of King's-bench to obtain in the House of Lords, the question would be wholly at an end, and the right of impeachment at once annihilated; since it were better to file an indictment in the one than prefer an impeachment in the other. But the foundation of impeachments was, to bring delinquents to justice, who would have escaped if tried according to the ordinary rules of the courts of judicature. The practice of the House of Lords was incompatible with that of the other courts, in regard to *vivâ voce* evidence and decision, without separating. Notes were in constant practice, and written evidence consulted, without which it were impossible, in cases of impeachment, to reduce under one view the whole body of the evidence; for there were few instances in which impeachments did not occupy some days; written evidence were then as indispensable in a trial of ten days as of three years. But it was said, that in a long impeachment, in consequence of the constant change of the members in the House of Lords, some who had been accusers, became judges. In reply, he observed, that there was no period of prorogation to which the same objection would not apply. The members who were so circumstanced, certainly could not be deprived of their judicial powers; at the same time, the exercise and application of those powers remained at the sole disposal of their own feelings and consciences. It was an unavoidable circumstance incidental to the nature of such a proceeding as an impeachment, from which no danger of injustice could be apprehended, with any shadow of reason.

He should, he said, wave for the present, every consideration of the inquiry how far the House of Commons were disabled from proceeding in the impeachment depending, as it remained a subject for future investigation. When it was once established that the right of impeachment did not abate by dissolution, the discretion of the House would next determine whether it were expedient to prosecute the impeachment in question any farther; or whatever line of conduct to pursue in regard to such a proceeding. Of this he was very sure, that no fair objection could be urged, from any defect of information. The court in which the

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trial had been conducted, was accessible to all; all the reports and papers respecting the evidence, were open to general inspection; so that it was entirely at the option not only of every member of the House of Commons, but also of every British subject, to remain in ignorance of any part of the proceedings. He wished it to be understood by all, as an established and incontrovertible principle, that impeachments continued *in statu quo*. A contrary mode of proceeding would be attended with consequences destructive of the privileges of the House, as well as injurious and prejudicial to the cause of the party accused. If an offence, for instance, were committed, the conviction of which required a proceeding by impeachment, upon the eve of a dissolution of parliament, the prosecution might be postponed until the meeting of a new parliament, in order to avoid a repetition of the proceedings; the consequence naturally to be apprehended was, the escape of the delinquent. If, on the other hand, an impeachment had been carried on for such a considerable length of time, as to exceed a dissolution of parliament, the repetition of the proceedings in that case might materially impede the progress of other public business. The death of a witness, in the mean time, might very considerably too affect the state of the evidence; and an impeachment, by this mode of proceeding, might be converted into an engine of oppression and injustice. Suppose the party impeached to have made some progress in his defence, his accusers might possess sufficient influence to procure a sudden dissolution of parliament; the consequence might be, a fresh accusation against him, fabricated out of his own defence. By such a nefarious proceeding, an individual might continue to be the object of a public prosecution all his life-time, without the possibility of the means of being pronounced either innocent or guilty. Thus, an impeachment must continue in *statu quo* after a dissolution, or the privileges of parliament must suffer violence, and the cause of the accused sustain irreparable injury, and intolerable oppression. He was clearly decided in his opinion, therefore, from the weight of precedents, from the principles of the constitution, from the authority of the greatest luminaries of the law, from the immutable principles of justice, from the expediency of public trials, and from every argument of plain common sense, that impeachments not only continued unaffected by a dissolution of parliament, but existed in *statu quo*, notwithstanding the operation of such an event; he therefore would vote, with cheerful confidence, for the original motion of the right hon. gentleman, that the impeachment of Warren Hastings, esq. was now depending.

The *Master of the Rolls* said, he felt that, after the very eloquent and able speech of the chancellor of the exchequer, the committee would not be desirous of hearing professional men. He trusted however, that he should be permitted to state rather his doubts and his difficulties, than any positive opinion which, from what he had heard, he had not yet been able to form. The subject of discussion was of great importance in a constitutional point of view; and he differed in many points from what the committee had just listened to with so much attention. The resolution proposed stated, that the impeachment preferred by the last House of Commons was still depending; and this question, it was said, must be decided in the first instance. He wished the resolution had been worded in other terms, and that it had gone the whole length of the resolution of the Lords in 1678, because he thought the decision ought to be in what state the impeachment was depending. That resolution said, that the state of an impeachment preferred in a preceding parliament was not altered by a dissolution; and he wished that the resolution now moved had been proposed in the same terms, because it would have been less difficult to form an opinion upon it. The hon. and learned gentleman who spoke first in the debate, had adduced many arguments that had not been answered to his satisfaction; and although he was not prepared to give any positive opinion, and was still open to argument and conviction, he inclined much to think that the state of an impeachment could not remain unaltered after a dissolution of parliament. He commented at large on the precedents as argued by the chancellor of the exchequer, and observed, that although the judges had bowed to the orders of the House of Lords, both respecting writs of error and impeachments, as he conceived they were bound to do, it did not follow that they conceived those orders to be founded on, or conformable to precedent. He expressed strong doubts whether the Lords, in cases of im-

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peachment, were a distinct court, independent of the Commons, and consequently, whether an impeachment was a pure judicial proceeding, as had been contended, and thence drew an argument for the necessity of appointing a committee to search for precedents, by which this, and other points of so much importance to a sound decision, might be determined. He admitted that the precedents and opinion cited from lord Hale would go a considerable way against impeachments in general; but if cases should occur not triable by the law of the land as it stood, it would be much more advisable to proceed by a bill of pains and penalties, as had been the ancient practice, than to assume the privilege of declaring what the law ought to be. He argued at length on the order of 1678, and desired to be informed where the precedents referred to in the report of the Lords' committees, which that order professed to follow, were to be found: they had been often mentioned, but never cited; and if there were any such, they ought to be produced. The House of Commons, in cases of impeachment, were no doubt, the representative and the organ of all the Commons of Great Britain; and in that point of view the prosecutor might be said to remain unchanged after a dissolution: but that the proceeding was not purely judicial might be inferred from this, that the Lords could not pass sentence till judgment was prayed by the Commons. The impeachment of lord Stafford was very different from the present. His trial was the work of one session of parliament only; and he trusted he should never see another trial protracted beyond one session: if this could not be prevented, as the law now stood, a particular law should be enacted to prevent it. If it was said that to appoint a committee would imply a doubt of their privileges, and lessen the dignity of the House; he was ready to answer that he saw no dignity in hastiness, and no disgrace in deliberation. It was argued that the King's pardon was not pleadable in cases of impeachment, and that consequently the Crown ought not to have the power of defeating an impeachment by a dissolution. All the danger that could be apprehended from an improper use of this power, was as much to be apprehended from an abuse of the power which the Crown undoubtedly possessed according to the law of the impeachment that was contended for. The Crown might create twenty new peers in one day, for the purpose of acquitting a criminal impeached by the Commons. He saw many inconveniences in deciding either way; but according to the best judgment he had been able to form, those attached to deciding that an impeachment remained *in statu quo* after a dissolution, appeared to be the greater. It was not, however, on convenience, but on law that they were to decide. Triumphs over the law, for the sake of convenience, would be found to be only victories over themselves.

Mr. *Yorke* wished more time had been allowed to search for farther precedents. The question had, he said, been argued so ably by the chancellor of the exchequer, that it would be unnecessary for him to attempt to go into the discussion; it was sufficient for him to declare, that it appeared to him, from reason and common sense, that impeachments were not discontinued in consequence of a dissolution of parliament, since it was founded in principles of justice, that the accused should have an opportunity afforded him of clearing his character and making his defence, which he could not have, if the impeachment were to abate. Mr. Yorke replied to several of the arguments of Mr. Erskine and the master of the rolls, controverting them separately, and stated why he differed in opinion from them upon the points in question. He said, he thought the House of Lords could not proceed to judgment unless the House of Commons prayed it; in like manner as the court of King's-bench on a conviction on a criminal information or indictment preferred by the attoney-general, would not give judgment until the attorney-general came into court and prayed it. The right hon. the chancellor of the exchequer had shown, Mr. Yorke observed, that writs of error had continued from time to time, notwithstanding a new parliament. In ancient days the parliament was dissolved, or expired, at the end of a single session; but as election petitions and other public business increased, it had been found necessary to increase the term of the duration of parliaments. Mr. Yorke defined the distinction of the rules of proceeding in the courts of law and the court of parliament; in the former, the whole power of the court was derived from the Crown; in the court of parliament, all the power was derived from the people, and not from the Crown.

The *Attorney General* was desirous of

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farther time and more information. It had been said in the former debate, that there were no precedents prior to that of 1678. It was now said that there were. Now, if from those precedents it should appear that the order of 1685, rescinding that of 1678, restored only the ancient law of parliament, he should be inclined to give much greater weight to that order than he should do considering it apart. They had been alarmed with the idea of surrendering their privileges, but whether the question implied any surrender of their privileges, he was not yet able to satisfy himself, and therefore he wished for time to consider. At present it appeared the better argument that an impeachment abated by a dissolution. The question was not, as he conceived a question of privilege, but a dry question of the law and practice of the House of Lords. How was that to be decided but by the orders of the court? When sir William Jones and serjeant Maynard argued at the bar of the House on the order of 1678, they contended that the order of every court competent to make an order on the form of its own proceedings was conclusive, and not to be questioned. Lord Nottingham, the chancellor, confirmed what they said, and refused to hear any thing against the order. This mode of reasoning applied with equal force to the order of 1685. That was the last order of the court, and therefore by any suitor in it not to be questioned. If the rules of courts, competent to make rules for their own proceedings, were to be canvassed and examined by circumstances, the security of life and property would, in many instances, be materially shaken. He also reviewed the precedents which had been argued on as favouring the doctrine, that an impeachment abated by a dissolution. With regard to the mode of proceeding by the Commons, were it not to abate, would any man maintain that the minutes printed for the use of the Lords, were such evidence or authority as the House could act upon? It was a fixed principle in law, that nothing but the record, which could not be averred against, was to be borrowed of one tribunal by another. It would not, surely, be contended, that one House of Commons was to act ministerially, as the mere agent of another? He did not deny the principle, that the prosecutor in an impeachment was the Commons of the whole kingdom, and therefore perpetual; but there was a great difference between a dissolution and a prorogation of parliament. After a prorogation, the members of the House of Commons were the same, except such incidental changes as must be continually taking place in a numerous body, and acted under their original summons by the Crown and original delegation from their constituents. After a dissolution they all were or might be changed, and assembled, under a new summons and with a new delegation, but admitting the perpetuity of the Commons as contended for, it was at least as established a maxim in law that the king never dies, and yet till the inconvenience was cured by act of parliament all suits in the king's name abated on his natural demise. As far as analogy went, it followed, that a prosecution abated by the dissolution of the House of Commons that commenced it; since no law had been passed to prevent it. Sir Archibald animadverted on the danger of adopting a principle by which an impeachment might go on from session to session, and from parliament to parliament, indefinitely, and concluded with repeating, that he had not sufficient confidence in any opinion he had yet been able to form to decide on the question without more information.

Mr. Adam and Mr. Pybus, a new member, having risen at the same time, the preference was given to the latter.

Mt. *Pybus* began by lamenting that he had been drawn into a competition with the learned gentleman; and said he strongly felt that he had no other claim to pre-audience, than such as courtesy had allowed to that novelty of situation in which he was placed. He was sensible that, under the most favourable circumstances, he should appear to great disadvantage before those, who had been long used to admire the extraordinary talents of many gentlemen in the committee: it must therefore be a matter of the most reasonable anxiety to him, whenever he ventured to deliver his sentiments, that the House should be in the full possession of their accustomed indulgence. He should not attempt to trace over again the ground which had already been so clearly and accurately described: but should content himself with declaring that from a diligent inspection of the Journals of parliament, and from an attentive consideration of the analogies of law, he had satisfied himself, that the impeachment had not been affected by the dissolution.

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Whatever doubts he had entertained upon the point of law; upon the point of reason, justice, and a due regard for those invaluable rights of the House of Commons, which were implicated in the question, he had never had any doubt at all. He was aware, that the particular case should always be governed by the existing law, whatever that might be. The absurdity of a law was a good reason for repealing it, but was none for opposing its decision. It was better to submit to a temporary evil, than to render the first object of our obedience precarious. What, then, was the law, and how were they to ascertain it upon that occasion? If the merits of contradictory precedents were to be weighed against each other, he had already declared which scale, in his humble opinion, must preponderate. But he would go still farther, and he agreed likewise, with the chancellor of the exchequer in the second part of his argument. If the weight of precedent had been exactly the reverse of what Mr. Pybus had conceived it to be, he should, even in that case have thought that nothing short of a clear, uninterrupted parliamentary usage, could justify him in opposing the original motion by a vote, which might weaken and endanger the right of impeachment.—There were, however, many members of the committee who thought that the law should be wholly collected from the preponderation of precedent. If in ascertaining that, the balance should incline differently in their minds, from what it did in his, though they might join with a learned gentleman in deploring the abatement as a national calamity, they were certainly obliged in conscience to maintain it. But if there should be any whose minds, at the conclusion of the debate, should be unsettled upon that point, whether from the want of an apprehension purely and technically legal, or from other causes, they would be equally bound, in the absence of that conviction, to consider the general merits of the question, and to vote in a manner the most consonant with their ideas of reason and justice, and the safety of that right, in the preservation of which the nation was so deeply interested.—He confessed, that upon these latter grounds he was unable to suggest to himself any argument which could fairly be adduced in the support of the abatement. The House of Lords had been admitted to be a permanent court of judicature. In all impeachments the accusing party virtually, though not identically, were the same after a dissolution as before it: for it would be ridiculous to contend that the great body of the people, in whose name, and on whose behalf, the articles had been carried up to the House of Lords, had sustained any material or assignable alteration. As no real change, then, had happened either in the tribunal or prosecutor, it was clear, that whatever was actually criminal six months ago, had not become less criminal from the interval which had taken place. The primary law of right, the true object of all human legislation, and the criterion of its excellence, was neither to be affected by lapse of time, nor difference of situation; and he could not imagine upon what principles of reason or of justice, the chances of escape should be multiplied to the guilty, or the tortures of imputed guilt prolonged to the innocent, because the king might be advised to call a new parliament.—But there was another consideration to which he particularly wished to call the attention of the committee: it arose out of the case of the earl of Danby. That minister had been impeached by the House of Commons in 1678, and after considerable delays, had pleaded the king's pardon. Charles 2nd told his parliament in the most express terms, that he had given lord Danby his pardon under his broad seal: that if that pardon should be found defective in form, he would renew it again and again till it should be perfect; for he was determined to protect him, as he was not criminal (and his majesty had assigned not a very constitutional reason for his innocence) having acted only in obedience to his orders. Now this was precisely that sort of case which impeachments were peculiarly calculated to reach. The king could never regularly be answerable for the faults of his government. The ministers alone were responsible; and if they valued their reputation or their safety, would relinquish their situation whenever the king should be resolved to act in contempt of their advice. The boasted right of impeachment, upon which the House of Commons so justly valued itself, would otherwise be a mockery. If the king, who was not amenable, could affectedly take the blame upon himself and protect his minister by a pardon, corruption, and every species of political infamy would be placed beyond the vengeance of an insulted nation. The House of Commons

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in 1678 felt that if this plea of lord Danby were to be allowed, it would sap the right of impeachment: a right derived to them from their constituents; to be exercised for their benefit, and not for their own any farther than as they were a part of, and not distinct from the great body of the people. They had had no precedent of a plea of pardon, but they had what was better than precedent, they had good sense and principle to direct them. They resisted the validity of the plea with spirit and firmness; and as they were neither to be soothed nor intimidated, the king had recourse to his only chance of screening his favourite from justice, by dissolving the parliament. The doctrine so properly contended for by the House of Commons in lord Danby's case, had been afterwards solemnly established by the 12th and 13th William 3rd, which had settled the succession to the Crown upon the house of Hanover; and had enacted, for the better securing the rights and liberties of the subject, that no pardon under the great seal should be pleadable to an impeachment by the Commons of England. But of what use was that salutary clause, if the king who was restrained from the improper exercise of his prerogative in one mode, might eventually produce the same effect in another by dissolving the parliament? It was true, and he thanked God it was true, that in some respects the times in which it was their happiness to live, did not resemble the times of Charles 2nd, and that no man would be found rash enough to advise the dissolution of a parliament for so infamous a purpose. Though the legislature had very wisely declined to mark out the exact limits, within which the exercise of the royal prerogative should be confined; yet the enlightened state of the country had sufficiently ascertained for all wholesome purposes, the boundaries beyond which discretion would not incline it to proceed. Such was the fortunate, the glorious situation in which they were then placed; but it was the use and province of history to point out to them what might be, by showing them what had been. As the peculiar guardians of the rights and liberties of the people, their duty called upon them to extend their political views beyond the contracted space of their own natural existence, and to take care that posterity should not suffer, because they felt and rejoiced in their own security.

Mr. *Adam* said, he was extremely happy to have given way to the gentleman who had preceded him, as it had given him an opportunity of hearing the sentiments of gentlemen of the profession, who though young members, had shown great ability in their manner of viewing the question, upon the true constitutional ground, unfettered with any technical matter, or constrained legal analogy, which others of his learned friends had argued upon; and which he was convinced they had done honestly and conscientiously, yet he was convinced they had viewed erroneously; for, in spite of the authority of the persons from whom those arguments against the continuance of the impeachment had come, he was well satisfied, that whether on the ground of precedent, of analogy to other courts, or of the great and inviolable principles of the constitution, it was a clear question; and when fairly examined, all these grounds led directly to the impeachment not abating by the dissolution of parliament. But before he went into the question on those grounds, he felt it incumbent on him to clear that part of the case which turned on the privilege of the House. It had been well observed by his right hon. friend (Mr. Burke), in opening the business, that we were now in a committee in one of our great superintending capacities, in the committee of courts of justice: and that it was the nature of the court, and the circumstance of the House of Commons itself being the prosecutor, which could produce a doubt. But when the case was stated, it would prove more clearly the necessity of standing upon their privileges, and only admitting the precedents not decisive of other courts, and of the House of Lords as illustrative of the great constitutional question. He put the case of the courts of Westminster-hall refusing to do their duty: suppose the court of King's-bench, which obtained jurisdiction in civil suits by the fiction of the defendant being in the custody of the marshal of the Marshalsea, or the exchequer, whose civil jurisdiction was obtained by feigning the plaintiffs to be the king's debtor, were to say, we will no longer admit the operation of those fictions; fictions which the wisdom of our ancestors (he said) contrived in order to introduce powers equal and co-ordinate in the distribution of private justice, and to give three places instead of

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the common pleas alone to decide on the property and personal rights of individuals; whereby, among other wise regulations, justice has been brought to a higher degree of perfection in this country than in any other in the civilised world. If the judges of those courts were to disregard these useful fictions, and thus abridge the means of justice, by shutting up two of the sources from whence it flows, would not the House of Commons inquire? would they not by their anathemas, either in the form of resolution, of address, of impeachment, or any other constitutional mode of exercising their inquisitorial power, compel those judges to do their duty? So in the present case can the Commons sit by and see their day of trial passed over unnoticed, the fiction of a dissolution operating, he hoped, inadvertently on the Lords to put the impeachment of a great state criminal aside without inquiry and resolution, founded on their known and undoubted privileges; a privilege similar to that which founded their inquiries into the conduct of the inferior jurisdictions, and which only differed in this, that in the case of the Lords it was one supreme power in conflict with another, without any third authority to decide between them, and therefore more purely and emphatically a question of privilege. That he stood upon the best and soundest precedent in the history of the constitution, when he determined not to go into a committee to inquire into precedents where their privileges were clear and material. That it had been agitated in 1679, whether a pardon was pleadable in bar of an impeachment. That the Commons, when called upon by the Lords to argue the question at their bar, refused to argue it, because it was so clearly interwoven with the constitution, and so essential a privilege, that to argue was to doubt, and to doubt, almost an abandonment of the right.

This being discussed, Mr. Adam said he did not mean to delay the House, at so late an hour, with a repetition of arguments which had been much better given, or a minute view of precedents, which had been fully stated, but to make such observations as might enforce those, in reply to some of his learned friends who had spoken before him. Those gentlemen (he particularly alluded to the attorney-general and Mr. Erskine) had said, that the resolution of 1673 related only to writs of error and appeals, and that they did not extend to impeachment; that there was merely a record, and no proceeding upon it in the nature of evidence, but a mere question of law. Mr. Adam said, that there were many decisive answers to this; that upon the face of the order of the Lords to inquire in 1673, and upon the report and resolution founded on that report, there is a clear distinction taken between the proceedings of the House of Lords in a judicial and legislative capacity, particularly the report of the committee said, that "any business in which their lordships act as a court of judicature, and not in their legislative capacity," continue *in statu quo* from session to session. (And here Mr. Adam pledged himself to show, in the course of his argument, that to all constitutional and legal intent, prorogation and dissolution must be considered the same.) And the resolution on this report said, that "businesses" continued. What businesses?—undoubtedly the businesses referred to by the reporting committee; of judicial, as contradistinguished from a legislative capacity. But he said this was not all: that this resolution, proceeding upon various precedents, did not make, but set forth the real constitution of the court of the king in parliament, and which he pledged himself to prove to be the real foundation of the continuance of the impeachment, in spite of dissolution; namely, that it was a constantly existing court, and that although from dissolution, or other cause, it might not be sitting to do justice, it was always open to receive appeals and writs of error; that there were many cases in the law books which showed that a writ of error might be brought *ad proximum parliamentum* during dissolution, as well as *ad proximam sessionem* during prorogation. That this proved the court of the king in parliament, which is the court in which the Commons impeach, as well as that in which error is tried, to be a constantly existing court: but he said it did not require that to prove it; it was founded in the very origin and source of the Lords' jurisdiction. A learned gentleman (the attorney-general) had put his argument for the abatement upon the identity of the parliament being gone, and that the House sat under a new authority. This, Mr. Adam said, was precisely the proposition he denied; he said it was in the very expression of that learned gentle-

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man, and of him who spoke before him (the master of the rolls), and of all who had spoken on that side, that he founded his answer to the argument built upon the identity of the parliament being unfounded. Those very gentlemen called the Lords the hereditary judges of the kingdom; they properly styled them hereditary judges. Why?—because they derived their jurisdictions from their patent of peerage, not from the writ of summons on dissolution, or proclamation to meet in parliament after prorogation. The patent of peerage to the peer and his heirs for ever, according to the nature of the limitation, gave him and his heirs of full age, as each succeeded, a right to act as a judge in that supreme court of the king in parliament. It was so clear a right, that no power could deprive him of it; for it was expressly laid down by lord Coke, and admitted by every lawyer, that the peer was entitled to his writ of summons to parliament; if not sent to him, he might go and demand it, and take it from the office. The writ or patent to the peer, for him and his heirs for ever, was the source and original of judicial power to the peer and his heirs for ever, who was thereby constituted an hereditary judge, exactly as the writ or patent to the judge in Westminster-hall for life; and for the life of the king (Mr. Adam here observed he put the act of the first of this King's reign out of the question, as he should all acts of parliament which had varied the constitution, and argue it upon the common law of parliament) gave judicial power to the judges. That the power once given, could not be taken away by the Crown during the life and good behaviour of the judge; that the peer's only ended by extinction of the peerage, or forfeiture to the laws; that the judge's power ceased, before the 1st of the King, with the demise of the Crown; that the judicial authority of the peer did not; why?—because it was hereditary; and in the seventh report of lord Coke, respecting the continuance or abatement of suits after the demise of the Crown, it is expressly laid down, that process by the sheriff of London does not abate, nor any heritable jurisdiction. Why? because the authority is independent of the Crown; whereas the proceedings in Westminster-hall did abate, subject however to revival. Why?—because the authority which gave birth to the jurisdiction was gone; whereas the jurisdiction of the Lords was in perpetuity. No act of the king could take it away, and no act of the king can therefore abate it. The authority was given with the patent of peerage; the day or time to exercise it, by the writ of summons to meet at the beginning of a parliament, or the proclamation to meet at the beginning of a session. Thus the day of meeting appointed by the king at his pleasure, gives the time for exercising the jurisdiction of the court, styled the court of the king in parliament; just as the common law, by giving the term to the judges in Westminster-hall, gives the time for exercising their judicial powers. The judges in Westminster-hall can no more exercise jurisdiction of what is called in bank (the interlocutory matters done in chambers, he said, were different), out of term, than the court of the king in parliament can when parliament is in prorogation or dissolution. But the king can abridge neither of their jurisdictions at the times allotted for it by law and practice. He cannot withhold a judge, or impede a cause in the King's-bench; he cannot dissolve a cause, or withhold a peer in the court of the king in parliament. It is a court perpetually existing: and lord Hale, whose authority had been so much relied on on the other side, said in the case of Sedgwick and Gaston, reported in the 1st Modern in the year 1673; that the register of writs contains a *scire facias* for a writ of error *ad proximum parliamentum*. The Lords, therefore, when they resolved that judicial matters survived *in statu quo* from session to session, in 1673, considered session and parliament, as it is, to be one and the same thing, not only on the force of the precedents there cited, but on the reason of the thing, derived from the nature of the jurisdiction. Considering it as a court, which though, like all other courts, it has certain times of acting; yet, like all other courts, it has a constant existence, and cannot be annihilated. His learned friend (the attorney-general) had desired that historical anecdote might not be had recourse to to explain away decisions and precedents. Mr. Adam said, he never would abandon history as a means of clearing doubtful cases. The characters of the judges who decided was most material in the judgments of the courts of law; the character of the times in parliamentary precedents. That on the precedent of 1673, he must press history into

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the service; if it could be said that he pressed history into the service where history was silent; but the silence of history was a most important ingredient in the case of 1673. He had looked in vain into all the histories of the times for the origin of that important resolution. But what he had looked for in vain in the histories of the times, he had found in the law books. That from the restoration to the year 1673, it appeared by many of the law reporters, that many cases respecting the operation of prorogation and dissolution, on writs of error and appeals, had taken place; doubts had arisen, the courts knew not how to decide; the resolution of 1673 must therefore have been a rule to settle those doubts; a rule taking its rise not out of impeachment or party agitation, or political spirit, but out of mere questions of private right and private property uninfluenced by passion or violence of any kind. And what does this calm, mild resolution, originating in peace not springing from discord, mark out? That the court of the king in parliament is a constantly existing court; that its judicial proceedings are not touched by the exertion of prorogation, but remains entire, and *in statu quo*, from session to session, which he again pledged himself to show, was the same as from parliament to parliament.

Having said thus much as to the resolution of 1673, he must now rescue from abuse that of 1678, which had been called an unfair resolution by his learned friend, (Mr. Erskine). It had been said by his friend, that that resolution was unfairly drawn; that it did not include impeachments as of the same species with writs of error and appeals, coupling them and uniting them fairly, but as by a side-wind catch introduced them; and it cited no precedents for their proceeding at that period. As to the first objection, even he could not help considering it as perfectly unfounded; that instead of being stated insidiously, it was stated fairly and correctly. That had the matter of impeachment been coupled with writ of error or appeal, of course it would have been insidious, because it would have been setting forth that as a principal which was a conclusion. That in the resolution it was fairly stated, and held out singly and disunited from the other judicial proceedings, to promote and require consideration. It was desired by the Lords' resolution of 1678, that the Lords committee should, as well as writs of error, consider the state of impeachments; and it was resolved upon the report, substantively and distinctly, that dissolution of parliament doth not alter the state of impeachments; that is, that the continuance of impeachment after dissolution was a corollary flowing from the state of other judicial proceedings —put fairly and accurately in the form of a corollary, not in the form of the primary proposition; upon the principles which guide or direct in the science of logic or mathematics, and all sciences which have reasoning for their end and object. That as to citing no precedent for their proceeding, that observation of his learned friend was equally without a solid foundation. The committee of 1678 referred to the journal 1673; that journal states precedents not only of civil cases, but, as a right hon. gentleman (Mr. Pitt) had observed, of criminal cases, and of criminal cases subsequent to the act of Henry 4th. But in this case those antecedent were as good authority as those subsequent. The object of the act of Henry 4th, was to abolish criminal proceedings before the Lords at the suit of individuals; but till that time they were legal: and by the precedents they appear to have endured from parliament to parliament; and at that time of day, if they endured from session to session, they endured from parliament to parliament; for by a learned gentleman (the master of the rolls), it was admitted, that in the early times of parliament there were no prorogations, and, Mr. Adam said, there were no prorogations on record before Philip and Mary. Then those cases, whether prior to or since the time of Henry 4th, establish this point, that criminal proceedings begun in one parliament, were carried on in subsequent parliaments, and did not abate. But his learned friend (Mr. Erskine) had endeavoured to show that the parliament of 1678 deserved no credit; and with a warm imagination, and great powers of expression, he had worked up the story of lord Stafford, or the Popish plot, of the perjury of Oates, and the infamy of Bedloe. For the frenzy and mistaken violence of the times, Mr. Adam said he meant to make no apology; but he felt it a duty to rescue from obloquy a parliament which, next to that which settled the revolution, and that which seated the House of Brunswick on the throne, deserved more of posterity than any parliament on record. That he did

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not consider the parliament by the character of the times, but by their constitutional acts in their legislative and deliberative capacity. That in that view there was not an important or material privilege of personal freedom, parliamentary independence, or constitutional principle, afterwards enacted and enforced at the revolution, which was not enforced and carried by the House of Commons in 1678. All the seeds were sown in that parliament which afterwards grew to maturity; the parliament of 1678 passed the habeas corpus act: that parliament resisted lord Shaftesbury, who, as chancellor, had attempted to regain the power of trying elections and judging of the right of members to their seats; and thus by a second struggle fixed this invaluable privilege for ever. That parliament resolved not on precedent and record, but on the clear unalienable rights of a free constitution, and the first principles of the independence of our inquisitorial power, without which inquisitorial power is a mockery; that a pardon was not pleadable in bar of an impeachment; that a lord high steward, an officer to be named by the Crown, was not a necessary part of the court of the king in parliament; which if it had been necessary, put it in the hands of the Crown to stop impeachment in the threshold, by refusing to appoint that officer; and lastly, completed that great work of our inquisitorial power being independent of the prerogative, by deciding on just and sound principles of precedent and law, that a dissolution did not annul an impeachment. The resolu- of 1678, therefore, was not only sound and just in itself, but was a resolution of a parliament whose reputation stood as high for sound constitutional doctrine as any in the annals of our history. With regard to the precedent of 1685, he said he would not repeat what had been said about it, but must make this observation, that if instead of having passed in times when a servile House of Lords, and a packed House of Commons, chosen by boroughs deprived of their legal rights, acting under a bigoted and misguided prince, that resolution had passed in the best of times, and under the most perfect parliament, it would with him amount to no authority, because it only removed one resolution without putting another in its place; and in doing so, it left the principle entire, for it did not dare to stir the other judicial proceedings; if so it, was like removing a rule of court, which a court of judicature had a right to make to advance justice or regulate proceedings, but which can neither make law nor annul it, It left the matter then at the common law, without any regulation, and the mere question was, what in this respect, was the *lex parliamenti*?

By the resolution of 1690, the case was not met; by that of lord Oxford the protest went too far; by that of the duke of Leeds in 1701, the rule of 1678 was observed; but as to those they had been so fully argued upon by Mr. Anstruther the speaker, and Mr. Pitt, that he would pass them by, and allude now to the cases at common law, as strongly confirmatory of the continuance of the impeachment. He stated first the case of lord Danby, from Skinner's Reports, which says, "6thly writs of error on long prorogation cease to be a supersedeas; but the party may have execution in B. R.—*à fortiori*, where liberty is concerned, which is so much dearer than property. But in one case or other the parliament, when it meets again, may go on; and if they reverse the judgment the party will be restored to all they lost, and so they may proceed to the trial of lord Danby." In this case lord Holt was counsel at the bar, Jeffries was judge, and came down on purpose to do the job of the day; and yet he who was not fettered by any principle of duty, who could foresee all the consequences of his admission, admits that all that is done is to enlarge lord Danby's custody, and that upon the meeting of the new parliament they may proceed to the trial of lord Danby; so far there is the authority of Jeffries, that instrument of prerogative and oppression, that impeachment endures from parliament to parliament. The next case in the books is from Carthew's Reports: this case arose upon the application of lord Salisbury to be bailed in 1690. Lord Holt, counsel for the prisoner in the former case, was now chief justice of the King's-bench, and presided at this application; and he, who knew exactly all that had passed, says expressly, "that commitments by the peers endure from parliament to parliament; that it was so decided in lord Stafford's case, who was committed by one parliament, tried, convicted, and executed by another; and that lord Danby's being bailed to appear at the next session of parliament was an affirmance of the commit-

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ment, and a plain proof of the opinion of the court at that time, that the commitment was not avoided or discharged by prorogation or dissolution." But this is not all; for by a case in 1701, reported in 12th Modern, it appeared, that where lord Holt still presided upon a question whether a writ of error being taken out *ad proximam sessionem* was good, the parliament having been dissolved, lord Holt says by way of illustration, "If an impeachment be in one parliament, and some proceeding thereon, and then the parliament is dissolved, and a new one called, there may be a continuance on the impeachment." Mr. Adam said the authority of the reporter had been attempted to be destroyed by a learned gentleman (the attorney-general), Mr. Adam said, he should deserve little credit from the House if he held up as of great authority for accuracy a reporter who could not be stated as accurate in Westminster-hall; that the legal accuracy of the report was of no consequence in the present instance; its authority and the argument derived from it, rested on the historical fact of lord Holt's position respecting the continuance of impeachments; upon that he rested the merit of the report, and so far it had not been, and could not be, invalidated. That lord Holt, who was counsel for the popish lords in 1679, had twice, as chief justice, delivered this doctrine; that he was, perhaps, of all the judges who ever sat in Westminster-hall, the judge whose authority was of most importance in a point of parliamentary privilege; that he had been led to a full consideration of the privileges of both Houses, and he had opposed as a judge in Westminster-hall the privileges of both. In 1690, lord Holt admits that lord Salisbury could not be bailed, because the impeachment continued. In 1696, he was the judge who decided in spite of the determination of the lords, that lord Banbury was not triable for a capital crime in the King's-bench against the privilege of the Lords. In 1701 he decided against the privileges of the Commons in Ashby and White, and contended that a court of law might try a right of voting at an election; yet both before lord Banbury's case in 1696, namely, in 1690 he decides for the continuance of impeachment; and after it, in 1701, by the doctrine in 12th Modern; and that, too, when the privileges of the other House were under his contemplation in Ashby and White; and all this is done by lord Holt, who was counsel for the popish lords, who must have known, and had fresh in his recollection, all the points and all the arguments. So that if any cases deserved authority, these deserve authority, as being delivered by a grave and learned judge, who had more means of information on the particular case than any person of the times; who was not afraid of combating the privileges of either House of Parliament; whose authority, therefore, on a question of this kind, may be deservedly reckoned higher than that of any judge who has ever sat in Westminster-hall; because if he had prejudices, they were prejudices unfavourable to the privileges of parliament, when set in opposition to the courts of Westminster-hall, and with all his leanings directly against the privilege, he admits the continuance of impeachments.

Mr. Adam said, that upon the ground of precedent whether derived from parliamentary sources, or from the courts of Westminster-hall, it was clear that dissolution worked no change upon an impeachment. That those precedents in both cases were supported by the strongest historical observations, and evidently took their origin in the nature of the court, in the ground and foundation of its jurisdiction being hereditary, not temporary; being derived from the patent of peerage, not from the summons to meet in parliament; that the court never lost its identity, though its times of acting depended on the king's will. That that will could be equally exercised by the mode of prorogation and dissolution: that this question, as he had said before, must be taken free and unfettered by acts of parliament upon the original form of constitution. That the act of king William, which made it impossible for the king to interrupt parliament meeting for more than three years, ought in the argument to be left out of the case. That by the common law of the constitution (if he might use the expression), as distinguished from the statute law, there was no obligation on the Crown to call parliament; and if the necessities of the king or kingdom did not require a parliament, he might have gone on without one, either by a dissolution or repeated prorogations. But when it met again, it was the same court that met before; with the same power, the same jurisdiction, the same causes, and the

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same judges—not perhaps the same individuals, but judges sitting by the same title, which was hereditary, not at will, or for life. He said it was conceded in the argument on the other side, that the interruption of the court by prorogation did not annul an impeachment, but that dissolution did; and this was contended on the ground, that the prosecuting body had lost its identity. Or in other words, that the House of Commons did not consist of the same persons in the eye of law, however it might be in fact. He said, that the learned attorney-general had noted on this particularly; and had argued, that the present House of Commons must be supposed totally ignorant of the whole that had passed, and therefore incapable of going on with the prosecution. This was in the true spirit of what his right hon. friend (Mr. Burke) had so truly termed the mooting of cases in the temple hall. A great constitutional principle was not to be decided by extreme and abstract cases, but by the real solid principles of reason and law, applied to the conduct of men, to the principles of the constitution, and the existing state of things. But, perhaps the best way of answering one extreme case, was by putting another. It was admitted, on the other side, that prorogation did not annul an impeachment; yet it required no stretch of imagination to put a case, where prorogation should operate upon the fluctuating nature of mankind, to work the exact physical impossibility of going on, which was not actually true, but only politically true (if true at all) in the case of dissolution. Suppose queen Elizabeth, whose power, as to holding parliaments, was not constrained by any act of the legislature, had, instead of maintaining the consequence of this country among the other powers of Europe, which created public necessities, and obliged her to hold parliaments, had been, like her grandfather, Henry 7th, frugal, parsimonious, and unambitious, and had lived on the income of her crown lands and hereditary revenue, the parliament which met at the beginning of her reign, might have been continued, by prorogations, to the end of it; and an impeachment might have taken place at the beginning of the reign, which, according to the necessary admission of the gentlemen on the other side, must have survived to the last year of her reign, entire and unabated. During the three-and-forty years of that queen's reign, it is hardly supposable, by the course of nature, but quite certain, by the fluctuation of representation, that any one member of the parliament of the first year would be in the parliament of the last year; yet the law is admitted to be, that the impeachment did not drop, provided the parliament was prolonged for forty-three years by prorogation, but that forty days of dissolution ends and annihilates it; yet the prorogation of forty-three years leaves no one member, nor no one vestige or trace of the proceeding. The dissolution leaves in parliament, in general, by all observation upon the changes in parliament, all or most of the leading and consequential men; all those whose situation leads them to conduct affairs, or guide the business of parliament. From this extreme case was to be derived this important observation—that the whole was a question of expediency—that the necessity of ending the impeachment did not arise from dissolution; because the new House of Commons being still the legal organ of the people of England, who never die, could as well express their sense in the new as in the former parliament; and in a new parliament, the same, or very many of the same persons were returned, who did know the facts, who had conducted the business, and therefore who could decide upon the expediency of proceedings; whereas, after a long prorogation, such as he had supposed, the members being dead and gone, and retired, all memory and trace of the proceedings being obliterated, the expediency was to end it. Yet the gentlemen on the other side, on abstract suppositions, argued a continuance in the one case, an abatement in the other, against plain, positive existing facts. But all absurdities of the dissolution were answered by the single observation, that they admitted the propriety of an act of parliament to make it last from parliament to parliament, which never could be proper, if the absurdities they contended for had any foundation.

But Mr. Adam said, that the gentlemen having conceded, as they must concede, that prorogation did not annul the impeachment, had given up the question; for that there was no distinction, in the opinion of lawyers, or in the thing itself, between prorogation and dissolution. The learned master of the rolls had endeavoured to remove the force of lord Coke's

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authority, so well referred to by Mr. Anstruther. Lord Coke says, in his fourth institute, "Each session is, in law, a several parliament." Why does lord Coke say so? Because he must have reasoned upon all the different functions of the legislature, and found it so. For, whether parliament is considered according to its personal, deliberative, legislative or judicial functions, dissolution and prorogation are the same. If either House of parliament, in its deliberative capacity, was engaged in any investigation, dissolution put an end to the proceeding; but so did prorogation. If a legislative act was in its progress, dissolution put an end to that measure of legislation; so did prorogation, as effectually and completely as dissolution. During the session of parliament, and coming and going, each member had personal privilege: that personal privilege was put an end to by dissolution, so it was by prorogation. And the only reason why, in modern times, that privilege continued, was, that prorogation did now endure for a period no longer than parliament thought necessary to permit the members conveniently to come and go from their homes to their duties in parliament, and from their duties back to their homes. All these things, he said, were equally ended by dissolution and prorogation; but not more effectually by the first than the last. But as to judicial proceedings, it is the reverse: there, he said, they continued. A writ of error is confessedly not ended by a prorogation; neither is it by dissolution. Why? Because prorogation and dissolution are the same in law. Each session as lord Coke says, is, in law, a several parliament. An appeal is not ended by prorogation, neither is it ended by dissolution. And the question now is, whether an impeachment, that great act of inquisitorial power, which controls ministers and judges, and protects the constitution, in its nature judicial, in its proceeding analogous to the trial of a peer in a court which never ceases to exist, though its time of acting may be interrupted at the will of the Crown, is to be an exception to this great general rule; whether that, without which all the rest would be useless, and of no avail, is to end to a power, which shakes none of the others; whether, while a cause between two individuals resists the storm of prerogative, and in the shape of a writ of error, survives dissolution, a cause instituted by the representatives of the Commons of England, for themselves, and all the Commons of England, is to give way to that power; whether the inquisitorial power of the Commons is to be the only exception to that important principle of the constitution, that, with the single exception of the people sending new representatives, dissolution and prorogation are the same; equally annulling personal privilege, deliberative and legislative acts; equally leaving judicial proceedings entire and untouched.

But the learned gentlemen on the other side, say, the representatives of the people are changed; and it would be a grievous hardship to go on with a prosecution, of which the new parliament must be entirely ignorant; yet, the same learned gentlemen admit, that the record does not abate, but only the proceedings on that record. Upon their own analogy of the death of the House of Commons being like the demise of the Crown, they could not argue that the record was gone; because, on the demise of the Crown, the proceedings on an information or indictment abates, but the information itself remained. Mr. Adam asked, what they meant to do with that record? Was it to remain unacted upon? Was the prisoner, or accused, to remain for ever under it? Was there to be a *noli prosequi* by the Commons? Or was there to be a proceeding? If a *noli prosequi*, of course it might as well abate, he said; for, whether a thing ended of itself, or could not be carried on, for the want of knowledge of the prosecutors, was one and the same thing. Was it to be carried on? he asked; for if it was, then that either supposed knowledge, or the means of acquiring it. But the record remained: then why should not the proceeding upon it remain? Why, the gentlemen on the other side say, because, by the demise of the Crown, proceedings upon an information abate. But what sort of proceedings? Those which are preparatory to trial; the plea, and what are called, in the languge of Westminster-hall, the continuances. But in that case, there is nothing in the nature of the proceedings, but what is merely preparatory to impannelling the jury; whereas, in the case of this impeachment, the Lords are a jury impannelled to try the cause of Mr. Hastings; a jury who do not, he said, fall within the rules of other juries, but who are equally known to the constitution as those described by

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his learned friend (Mr. Erskine) and who could only be discharged from their duty like all other juries, by a verdict. The fact was, that all those analogies which were taken from other courts, tended only to mislead; because the proceedings and principles of action were fundamentally different. He said, it was unnecessary to enter minutely into the detail of the constitution and forms of the court of the king in parliament, after what had been said by a right hon. gentleman (Mr. Pitt). But it was clear, from the very simplest and apparently most insignificant of their modes, that they could not be compared with the trial by jury. That when a jury was impannelled to try a cause, a judge presided—the judge took notes, but there was no stop to take down the question—no stop to receive the answer—no form which made the evidence, as it were, a record. But all was done on the general impression, and, as it were, *uno flatu*. The jury could not separate till they had given their verdict; could neither eat nor drink, nor take refreshment; and if they retired, they must retire in custody of a bailiff, till they pronounced upon the prisoner they were impannelled to try. It was not so in the court of the king in parliament; there the court adjourned and continued, *de die in diem, de sessione in sessionem*, and, as he contended, *de parliamento in parliamentum*; and their proceedings and forms were all calculated to suit that constitution. The evidence was taken in a different manner. The question, instead of being asked of the witnes, was put to the court by the manager or council; the chancellor presiding, put the question to the witness; that question being first taken down by the clerk, who likewise, before another question was put, took down the answer given by the witness. Thus, not the general effect, but the precise terms, were taken down, preserved, and kept, for the benefit of the court; who not only need not all be present, but where new persons daily, from death, creation, &c. found their way into the court, and might legally give judgment of condemnation or acquittal. Therefore, if the argument, founded on the demeanor of a witness not being seen by the prosecutors, had any foundation, it applied more strongly to the court: for if a person might judge, who had not seen a witness examined, surely a prosecutor might ask for judgment who had not seen him examined. Yet such was the constitution of the high court of parliament, as laid down in all the law books, as arising out of its very form and origin.

He contended, that all that he had said was established to be the constitution of the court by Mr. Justice Foster, in his most excellent and able discussion of the question of the court of the king in parliament being dissolved by the lord high steward having broke his rod before the time for the execution of lord Ferrers was fixed; from which, he said, that important constitutional fact appears, which he mentioned before, that the office of lord high steward is not necessary to constitute the court of the king in parliament. Mr. Justice Foster laid it down in that case, that "Every proceeding of the House of Peers, acting in its judicial capacity, whether upon writ of error, impeachment, or indictment, is in judgment of law a proceeding of the king in parliament; therefore this court of our lord the king in parliament is founded upon immemorial usage, upon the law and custom of parliament, and is part of the original system of our constitution. It is open for all the purposes of judicature during the continuance of the parliament; it openeth at the beginning, and shutteth at the end of every session; just as the court of King's-bench, which is likewise in judgment of law held before the king himself, openeth and shutteth with the term. The authority of this court, or, if I may use the expression, its constant activity for the ends of public justice, independent of any special powers derived from the Crown, is not doubted in the case of writs of error from those courts of law whence error lieth in parliament, and impeachments for misdemeanors. I will not recapitulate; the cases I have cited, and the conclusions drawn from them, are brought into a very narrow compass; I will only add, that it would sound extremely harsh to say, that a court of criminal jurisdiction, founded in immemorial usage, and held in judgment of law before the king himself, can, in any event whatever, be under an utter incapacity of proceeding to trial and judgment either of condemnation or acquittal, the ultimate objects of every criminal proceeding, without certain supplemental powers derived from the Crown." From this it appeared, that the court in which the Commons impeached, was the court in which a peer was tried; that it was the same court which tried writs of

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error: that in no case did it require the king to supply it with powers to enable it to act, but possessed those powers inherently, and in its own nature and constitution; that the Crown, as he had said before, only gave it a day, that in the language of Mr. Justice Foster, it openeth at the beginning, and shutteth at the end of every session, as the King's-bench openeth and shutteth with the term. That upon all these grounds he founded his opinion clearly and decisively; and he said there was only one thing before he came to the last head; that of the expediency, on which he wished to say a word or two. The learned master of the rolls had laid it down as a position, that no allusion should be had to the impeachment of Mr. Hastings in the question now discussing. But the learned gentleman had not kept his word; for throughout his speech he had again and again talked of the delay and length of time in that impeachment. Mr. Adam said, he did not wish to give the debate the least turn towards the merit or demerit of the managers of that impeachment, of which he had his share of blame if there was any. That a day would come when that question must have a fair and full discussion; when he pledged himself to prove, that if there was due regard paid to the extent of the charges, the number of facts proved, the medium by which they were proved, the days exhausted in reading the record, the time taken in settling preliminary matter, the ambulatory nature of the court, which obliged them to retire to discuss every question in the chamber of parliament, the number of days were not many; nay, he could venture to say, could hardly have been abridged by any means that could be suggested; that the fair mode of estimating the duration of the impeachment was not by sessions of parliament, but number of days. That the number of days had been a few above sixty; that the sessions had been three; why, because but few days had been given in each week, and they had always been late of beginning, and the cause which two years ago had suspended all public business, suspended the commencement of the impeachment till the month of April. Mr. Adam begged, therefore, that this supposed delay might not influence the opinion of the committee upon grounds of prejudice, where a great constitutional question, no less than the existence of the supreme inquisitorial power of the Commons, was agitated; the most important question to the liberty of Englishmen that had been agitated during the present century; a question in which the rights of the Commons not to have their impeachments interrupted by the acts of the Crown, was founded on the ground of parliamentary precedent; decisions of courts of common law. On the nature of the court before which the proceeding was held, and of the power when preferred, which was founded not in precedent, or practice, or history, but in this, that we live under a free constitution; and as in the case of a pardon being pleadable in bar of an impeachment, it was contended no such right could belong to the Crown without annihilating the effect of impeachment, so here, dissolution cannot end it without the same effect.

Under these impressions, he felt his mind so clearly satisfied, that it was almost unnecessary to have recourse to any other source: but the ground of expediency was one which pressed so strongly on his mind that he could not avoid saying a word or two upon it. He said, lord Hale, in the tract so often quoted, discussing the attempt of the Lords to hold jurisdiction in the first instance, used these words "If we may judge of what is unlawful, by what is highly inconvenient, there is no original jurisdiction in the Lords House of Parliament." So here—if we may judge of what is unlawful by what is destructive of the constitution, there can be no abatement of impeachment by dissolution. It has been said, with great truth, that the inquisitorial power of the House of Commons must be independent of the acts of the Crown. This was a necessary result from that main principle of the constitution, that the king can do no wrong. That principle was what secured the liberty of the people, by entrenching the security of the prince. It rendered the supreme executive magistrate secure and permanent, by rendering all his acts unquestionable, who would otherwise be the sport of party contention, and court intrigue. But while the king could do no wrong, and was thereby removed from all inquiry, it was necessary that his ministers should be the subject of the inquisitorial power of the Commons unfettered by any restraint.—Whether appointed to administer the state, the revenue, the mi-

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litary, or to distribute the justice of the country.—Whether to direct the great and necessary acts of government at home or abroad. That if those ministers were capable of screening themselves by procuring a pardon, in bar of an impeachment, by preventing the king from appointing a high steward as a necessary part of the court, by advising him to dissolve the parliament, or by any other act of prerogative, that inquisitorial power, which held and bound the whole together, which at once secured the responsibility of ministers, and irresponsibility of the Crown, was lost and destroyed. The days of Charles 2nd, who to screen his chancellor, put the seal to lord Danby's pardon with his own hand, might again return. Lord Bacon's conduct might have been protected, and judges might openly hold out their hands to take a bribe. But above all, that important principle of the irresponsibility of the king, which is founded on the responsibility of his ministers, and which is secured by the king having no prerogative by which impeachment can be annulled, would be put an end to, and this most important act of the House of Commons of no avail. On every principle therefore, as well as every precedent, Mr. Adam said, he heartily voted for the motion, and had not a doubt, that no part of the proceeding abated, but remained *in statu quo*, to be proceeded on according to the direction of the House, at the beginning of a session of a new parliament, as at the beginning of a session of the same parliament.

Mr. Serjeant *Watson* said, he had listened attentively to all that had fallen from different gentlemen, in the hopes of being able to have the doubts he entertained, respecting the original question, removed: but though he had earnestly endeavoured to be convinced, he could not get over his doubts, which obliged him to think that the idea of an impeachment not abating with a dissolution, was contrary to the law of the land. The serjeant adverted to the precedent of 1701. He concluded with expressing a wish that a committee should be appointed to examine the Lords' Journals and report precedents more at large.

Mr. *Pitt* proposed to adjourn as before, but to ask leave to sit again upon the morrow, as several gentlemen had not yet had an opportunity of being heard. The committee accordingly adjourned.

Dec. 23. The order of the day for going into a committee to take into farther consideration the state in which the impeachment of Warren Hastings, esq. was left at the dissolution of the last parliament, having been read, and sir Peter Burrell having taken his seat at the table,

Colonel *Simcoe* observed, that upon the present occasion, he had formed his opinion rather from reason than precedents; that he had listened with great pleasure to the able and eloquent speech of the chancellor of the exchequer; and that he felt conviction from the force of his arguments, and the additional light he had thrown upon the whole subject. He had therefore no scruple to declare it to be his opinion, that the impeachment either was, or ought to be depending: and this opinion he gave independently of any predilection for our Asiatic territories: he had always turned from them with an averted eye, and uniformly considered our possessing them, at best, but as a precarious usurpation. He took notice of the manner in which Mr, Burke had thought proper to treat a worthy friend of his on the first day that the subject of the impeachment came before the House. Without giving any answer to the arguments of the hon. gentleman, or saying a syllable relative to the journals on the table, which the hon. gentleman had charged with containing resolutions contradictory of each other, and which the hon. gentleman had stated to be the reason that had induced him to alter the opinion he once had entertained of the impeachment of Mr. Hastings, and to oppose the chairman's leaving the chair, the right hon. gentleman had chosen to hold out intimidating language to the hon. gentleman, and to the House in general; to charge the hon. gentleman with having put on a suit of cast off clothes, and to have become a convert. If his hon. friend was become a convert, he would tell the right hon. gentleman the reason. It was in consequence of that right hon. gentleman's own conversion; it was because he had thrown off the clothes that he had so long moved in, and at length put on the true constitutional dress. He wished the right hon. gentleman joy of his new garb, since the robe of truth became him better than the raiment of Rome or Greece. Might the mantle long continue to cover him! The colonel hoped the right hon. gentleman would not again hold the language of menace to respec-

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table gentlemen, who acted upon the most disinterested motives, and were contented to do their duty conscientiously, without advancing the least pretensions to a competitorship with men of superior talents, and more confirmed celebrity.

Mr. *Burke* begged leave to tell the hon. gentleman who had spoken last, and who had chosen to make him the object of such pointed animadversions, that although they agreed in the general principle, their application to the particular case was widely different. The hon. gentleman had stated something about the clothing of another respectable member; but of this he was confident, that the suit had not been taken from his wardrobe, and neither resembled his pattern in the stuff, nor trimmings. It was a coat which had been brought forward last session, and which had been offered to the hon. gentleman, but rejected with disdain. It was a coat which had then been worn by a friend of Mr. Hastings, and to no part of which he certainly could lay any claim. He hoped, therefore, that he should not have the merit of clothing the hon. gentleman, till it could be shown, that the coat which he had adopted, was cut according to his pattern. It was remarked, that he had noticed the conversion of the hon. gentleman, but not the reasons which he had assigned as its motives. If he had not noticed those reasons, it was because he had heard no reasons which had not been frequently stated before, and which had not been over and over again urged in the last parliament by Mr. Hastings's agents, and over and over again refuted and despised by the hon. gentleman himself, as well as by the House. By what means have these rejected and despised arguments become, since the dissolution, so very convincing, to him as totally to alter his opinion? When the house, as one of its last acts, had solemnly pledged itself to the public, in a formal resolution, entered on the journals and printed in the votes, for persevering in this prosecution until judgment should be obtained, why did not the arguments then urged, which have since wrought such a change in his mind, then occur to him? They were then fresher on his memory than they can be now. Why did he not then declare himself converted, and endeavour to save the House from that solemn declaration; and which now they cannot retract without covering themselves with everlasting infamy? But the gentleman who spoke last had expressed something respecting his (Mr. Burke's) conversion, which had restored him to that gentleman's good opinion. If any one could show him a reason why the Crown should possess the power of putting an end to impeachments by a dissolution of parliament, he would then indeed become a convert. Were he convinced by argument that he was in the wrong, he would readily yield to its authority. But in the mean time, his conduct had been uniform, his opinions had been published; and there was no part of either which afforded any ground for the insinuation that might be intended by the phrase "conversion." He had been accused, too, of speaking in a style of menace—a sort of language which he was not accustomed to employ. He had said, indeed, that if the Crown had the power of putting an end to impeachments by a dissolution of parliament, the constitution would be destroyed. This conveyed a warning of the consequences of such a measure to themselves and their posterity. It was the measure and not he that menaced. He was happy to find that gentlemen had taken up the question on the principles of reason, as well as on the authority of precedent. In a question which concerned the safety and welfare of the people, every consideration, except what had a tendency to promote these great objects, became superseded: "salus populi suprema lex, prima lex, media lex." As precedents, however, were one ground though only one ground of legal argument, they ought not to be despised, as they were evidence of legal tradition, and showed what was reputed law at the time of their being given. They ought for this purpose to be shown to have the qualities, fit to render precedents of full authority in law. They ought to be shown, 1, to be numerous and not scattered here and there; 2, concurrent and not contradictory and mutually destructive; 3, to be made in good and constitutional times; 4, not to be made to serve an occasion; and 5, to be agreeable to the general tenour of legal principles which overruled precedents, and were not to be overruled by them. Had any attempt been made to prove such a course of precedents, or to overbear such a body of authority as those which have been cited in favour of the continuance of the impeachment?

The gentlemen of the law, of whose arguments he was concerned to find

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that he had formed too sanguine an expectation, instead of keeping themselves elevated to the height of their own capacity, had, in what they had said, seemed to lower themselves to a level with their auditors, and to have consulted less their own powers of information, than the mean abilities of those whom they addressed. With astonishment he declared, that not one single ray of legal light had been thrown on the question from that quarter. The reason, however, which he must otherwise have been at a loss to explain, had at last been assigned by an hon. gentleman who sat near him, and who had candidly acknowledged that he did not feel himself "much at home." The reason had now been ascertained; and indeed seemed equally to apply to all the gentlemen of the long robe; they did not feel themselves at home. They were only sojourners here. They only perched in their flight to a higher region. This was only the seat of their pilgrimage: they had in view a better country, for which they reserved the full display of their knowledge and their talents. They only exercised themselves here in skirmishing with the rights of the Commons, with which, in the other House, they meant to carry on a war. All they could afford to give us here was a sort of quarter sessions law, a law *minorium gentium*. It was true indeed, that an hon. and learned gentleman (Mr. Erskine) had declared himself nervous, and had modestly declined all claim to eloquence. Why should the hon. and learned gentleman decline a claim to that which all the world allowed him entitled, and to which alone he had had recourse in the present debate? It was plain he trusted in that, and in that only. He had confessed, that he had not examined the Journals of the House of Commons, and was pleased to assert, that he had not had access to those of the other House, which were printed and accessible to the whole world; he only produced in his hand a pamphlet, to whose contents, if he trusted to supply him with argument, it was not easy to see on what he could possibly rely, except his own eloquence. The course of that eloquence was however stopped. The hon. and learned gentleman was suddenly seized with an indisposition, which obliged him to break off abruptly, and sorry he was for any indisposition which should deprive them of a display of the hon. and learned gentleman's abilities. However, this want of matter and want of health, was but the misfortune of a day. The hon. and learned gentleman had received his strength, and he had come down again furnished, as it might be supposed, with an irresistible battery of argument and of precedent, prepared to repel all doubt and beat down all opposition. No, no such matter; but just at the moment of his arrival—and a friend in need was a friend indeed—he had been furnished by a friend with a precedent, on which he rested the whole weight of his cause: with this precedent he said, that he would surprise and astonish the House. It might be expected (continued Mr. Burke) that I waited the mention of this formidable precedent with no small degree of impatience and apprehension; but when I heard it, I must own that I was astonished. This knight-errant, whom he had chosen as his champion to break a lance with the House of Commons, was a sir Adam Blair.

The real state of the case was thus. In 1689, this sir Adam Blair had been impeached by the Commons before the Lords, of high treason, a little before the end of the parliament. Upon its dissolution, instead of getting rid of the impeachment, he had remained a prisoner in Newgate, and had not been set at liberty till eight months after the meeting of the new parliament, when the Lords finding that the Commons declined to proceed, discharged him. Has not now this knight-errant proved a knight-recreant, and instead of supporting the party whom he was brought to defend, deserted to us? I admire ready wit. I admire prompt and extemporaneous eloquence. But prompt deliberation, extemporaneous research, and sudden judgment, do not demand my respect so powerfully. In a case that required research and consideration, ought he not, before he adopted it into his reasoning, to have paid some attention to the statement of facts? But the hon. and learned gentleman had assigned the reason of all this; "he did not feel himself at home." The bar was the scene of his wealth, of his reputation, of his fame; this House was only the scene of his duty. It was related of Lewis 14th, that all his children by his mistresses were handsome and vigorous, while those by his wife were puny; his physician, when he was asked the reason, replied, that his wife had only the rinsings of the bottle. In like manner, that House had only the refuse of the hon.

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and learned gentleman's abilities; they obtained him solely at second hand. This was the scene of his duty, the other the scene of his pleasure:

"We take his body, they his mind;
"Which has the better bargain?"

This partiality for home was easily accounted for. Home was home, let it be ever so homely, and, in consequence of this partiality, the gentlemen of the long robe were led to measure the proceedings of parliament by those of the courts, and to prescribe the rules of the courts as the standard of the usage of parliament. Here they were only militant and gave to royal prerogative all that weight which in their future situations they might be called to support. To us (said Mr. Burke) who are only ordinary members of parliament, the rights of the Commons are every thing. Without them we have no existence. We have no other ground to retire to. Fighting for them we fight "pro aris et focis." Hitherto the members of that House (because in that House they were "at home") had some sort of affectionate leaning, and fond domestic partiality towards their privileges. They took it for granted, that what they possessed in favour of their constituents, was lawfully possessed. They thought that what was never disputed in that House, ought not to be disputed any where. They employed argument and research, to defend their rights against those who attacked them, and not to raise questions amongst themselves and against themselves; or to furnish offensive weapons to their adversaries, by teaching them to doubt the legality of their best-founded claims. It was now, for the first time, that they were arrived to that pitch of candour as to set to work all the hunters after precedents, all the scratchers of parchment, all the revivers of dead ink, with a view, if possible, to discover a flaw in their own title. It was strange that they should advise them to search the obscure recesses of antiquity, more especially when those recesses were granted to be obscure, and leaving the solid ground of possession on which they stood by the resolutions of 1673 and 1678, to try whether some mouldy parchment might be raked out to dispossess them of their possession under that solemn decree. What rendered it still more strange was, that this search of obscurity was to produce light, and an endless length of investigation was proposed as a remedy of delay, and with a view to promote promptitude of proceeding in this trial.

Another gentleman of the long robe, the master of the rolls, had complained of this delay. What rendered the complaint singular was, that the hon. gentleman had been an eminent practitioner, and was now a judge of chancery, a court which had not hitherto been famed for the celerity of its decisions. And certainly till the time of the learned gentleman, who, no doubt, had affected a reform in that respect, any complaint of delay from this quarter, could not but have carried with it an air of ridicule. It was a new circumstance that the court of chancery should instruct parliament to be more expeditious in its proceedings. But why did not these gentlemen, who complained of the length of the proceedings of parliament, at once bring in a bill to shorten its continuance, and, as it frequently had been suggested before, to make it triennial, biennial, or annual, or oftener if need be, since, by these means all their purposes of expedition would be effectually answered? The cause must then die, not with its nature and merits, but with the parliament with whose duration the thread of its life was twisted. But, perhaps, the most surprising objection which had proceeded from a member of the law, was that which had been stated to written evidence. It was well known, that there was no other sort of evidence employed in chancery, except in particular cases. The judges in all the courts took notes, not only for their own use, but for the instruction of the jury and the summing up of the evidence. It was singular, that the things provided as aids to the known frailty of memory, should be alleged as reasons for rejecting memory so assisted, and admitting nothing written to be a ground of judgment. How came the memory to be worse for that which is always done "in perpetuam rei memoriam?" But when was this objection started? Why was it not proposed during the three concluding years of the former parliament? Was not written evidence then as bad as it was now? Was it not found out till after the dissolution of parliament? Was it now, for the first time, brought forward, when the charges might be supposed to be nearly finished? The motive of all this it was not difficult to ascertain. The culprit was now on the eve of making his defence. Any former attempts in his defence had been

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found mischievous in the extreme; and from what was to follow, the same consequences might be apprehended. At this moment of his peril, therefore, they interposed, and wished to snatch him away in a cloud from the unequal conflict between his cause and his defence.

The proposition which all these objections had been intended to establish was, that impeachments terminate with a dissolution of parliament, and are, of consequence, subject to the will of the Crown. But in their attempts to show that this was law, they had never endeavoured to prove that law thus administered was conducive to justice. In treating of the excellence of any art, it was usual to illustrate the advantages with which its exercise was attended. Why, then, had they not shown that this exercise of law was beneficial? Why had they not pointed out its tendency to convict guilt and clear innocence? Or how could they justify that law, the only effect of which that could be perceived was, to provide for the concealment and impunity of guilt? In contending for the law on the principle of its defect, they acted in the same manner as if they had enumerated the gout, the stone, and other diseases to which the body was subject among the parts of the constitution. Instead of representing their lady of law as a beautiful woman, well proportioned, they had represented her as an ugly, decrepit, and mis-shapen hag. They break a lance with all comers, not for the beauties and perfections of their mistress; but for her stinking breath and her toothless gums. With them justice may mumble a rich criminal, but can never devour him. Justice is to do every thing but judge. Every accident works a discontinuance in her process. She always fights to be defeated. Her work is always to begin, never to end. The defects of the law are the objects, not of the apology, but of the claim of its assertors, and they have sworn allegiance to her divine errors and indelible defects.

We contend that the law of parliament knows of no such a monstrous and shameful defect, as that by which a state criminal may be enabled to free himself, by his own act and by his own pleasure, from the pursuit of his country. But the gentlemen of the long robe deny the existence of a law of parliament, and maintain that there can be no law but what is understood and practised in their courts. Well, then, though we never shall allow that wild, false, dangerous, and unconstitutional doctrine, for a moment let us go upon their own grounds, and see whether they will abide by the conduct of the courts below, upon this very point. As they decline this too, they know that their ground is, if possible, more untenable on the law reports and law digests, than on the decisions and precedents of parliament. When the law of their own courts had, in one of the most eloquent speeches, perhaps, ever delivered within these walls, been shown to apply directly and conclusively against their positions, what course do they take? Will it be believed, that after they had endeavoured to annihilate the law of parliament, they have set themselves to invalidate all the authorities of that very law of their courts to which they had sunk the authority of the supreme and sovereign law of this constitution. Oppose to them Comyns's Digest—tell them that the first in rank of their judges calls it not only a great authority, as a judicious compilation of authorities, but a great authority as being that of the compiler himself. They reject this great authenticated digest; and give it no force but what is formed on its references to reports. Well then, give up to the professors, as good for nothing, their own digest of their own law, and while they send you to their reports. There, too, the ground fails under you—you are worse off—you are bogged deeper and deeper. They tell you, in so many words, that their reports are confused, perplexed, obscure, inaccurate, and were published after the death of the writers, from their notes, by persons who did not understand their meaning. Providentially, they have found a nameless note, in the hands of a nameless person, which had belonged to his grandfather, who was also nameless, though a learned judge; and that paper mentions nothing of what appears positively in the reported case. Such a valuable discovery could not be sufficiently prized; and had it been in the hands of this unknown gentleman's grandmother, it might perhaps have proved as much. Now observe where at last these gentlemen of the long robe have led us. We have nothing to induce us, after renouncing every species of public recognized law, both of the parliament and of the courts, to follow their opinion, but a pocket note, in the possession of persons not mentioned, grand-

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children of some grandfather or grandmother, but except by themselves never seen, and which even now is not produced, but which when produced will, they tell us, say nothing at all upon one side or the other of the question. Is this, then, the law to which we are to sacrifice all the known authentic sources of jurisprudence, the privileges of parliament, the justice of the kingdom, the only securities for our constitution? Are we to give up to them and to their grandmothers all the patrimony of our posterity, all the institutions of our progenitors? "The laws, the rights, the glorious plan of power, delivered down from our great fathers?" No: they shall not persuade us to act in this manner. These are not the reasons which will justify us in such sacrifices. Let us take care of ourselves. These gentlemen of the law, driving us from law to law, would, in the end, leave us no law at all.

Shut out from all their professional resources, these gentlemen at last have recourse to history to find something for their purpose. Mr. Burke said, he did not deny the use of history in explaining law; but he could by no means approve of the attempt to fritter away law by history. The evidence of history, however, would be found equally in favour of the continuance of impeachments. Of this Charles 2nd himself was strongly sensible, in the conduct which he pursued on the impeachment of his minister, the earl of Danby. That prince in the speech from the throne, continued by his chancellor, expressly tells his new parliament, that he would not discharge the earl of Danby, because he was under an impeachment of the last parliament, and ought to be tried in the new. Here was a declaration in our favour from the Crown, previously to a single step taken by this House; which showed that the king and his chancellor acted on the clear, known, recognised law, not on any claim of the Commons. The House afterwards took it up on the same ground. They sent word to the Lords, to remind them of the depending impeachment of lord Danby. Here the House affirms the principle. The Lords take it into consideration, and they solemnly determine and adjudge, that an impeachment is not discontinued by the dissolution of parliament. They tell us it was a point we had gained. We were punctilious. It became us to be so. To say we had gained a point did not necessarily infer that we had gained any thing but our right. But we did not hear a shadow of ambiguity in expressions. We would not take it to be considered as right regained or recovered. We insisted that we had always possessed it; that it was the clear indubitable right of the Commons, and in this the Lords acquiesced. But were they satisfied with a bare acquiescence? When lord Stafford was brought to his trial, he pleaded this very discontinuance which the gentlemen of the robe plead against us this day. Did the Lords yield to it? They would not so much as suffer it to be argued. On the foundation of this privilege, lord Stafford was tried, condemned, executed, and by the attainder, his whole line of succession cut off.

Here in the solemn avowal from the throne, in the proceedings of the Commons, and in the resolutions of the Lords, we have every thing but the mere form of a declaratory act of parliament for our privilege. We have afterwards a rejection of the admissibility of argument on it, and a judgment as solemn as ever was given. The Lords cannot rescind their judicial decisions. In the first year of James 2nd, indeed, for obvious temporary reasons, they attempted to rescind their resolution, which they miscalled an order, but they did not venture to rescind their judgment against lord Stafford, as founded in error. Nay more and stronger; a bill was actually brought in to reverse the attainder, and though such bills had been common, I have never seen any before this that did not assign some irregularity or error in the process. Here was one (according to our new principles) which glared upon them. Lord Stafford's law argument against the legality of the process had not been heard. They never, however, dared to go upon this ground even in king James's reign. It is not so much as mentioned in the preamble to the bill; as the bill proceeded wholly on the conviction of the evidence for perjury. But so tender were the Commons of any thing which might, by any kind of inference, affect that question, that king James's House of Commons, chosen in effect by himself, never passed it; and to this day the attainder stands. Now, shall that which has been sufficient to attaint and degrade for ever, one of the noblest families in the world, not be sufficient to support us in the right of maintaining a

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temperate process for bringing to a legal judgment an Indian delinquent?

A learned gentleman had availed himself, in the instance of lord Stafford, of the opportunity to appeal to the passions, to rouse our indignation by the injustice to which he had been exposed, and to excite commiseration by his age and sufferings. An appeal to the passions, even in favour of those whose sufferings might seem to be obliterated, by all the injuries and sufferings of others, during a period of more than a hundred years, should never be condemned by him. He never would condemn those appeals to the heart in favour of the sufferings of innocence, which never ought to be antiquated; because, by magic of eloquence, the remotest sufferings of mankind are thus brought home to our bosoms; time and place disappear to the sympathy that unites all mankind in all countries and in all ages, and the sphere and empire of benevolence is extended every way, and upon every side. But let us take care that our appeal to the passions is not rendered rather ridiculous than pathetic, by having no proper relation to the point in question. Nothing out of its place and season is powerful or decent. Our moral feelings are the most excellent part of our nature; but as they might mislead our judgment, it was of consequence to watch their operation. In this view, it was improper to allow considerations of malice or perjury to interfere with matter of order, formality, and law. Recent instances had occurred, in which wretches, by the grossest perjury, had taken away the lives of their fellow-creatures; and if those instances were allowed to interfere with the authority of the court, or the decision of the judges in future, there would be an end of all law and all justice. It had been urged against the order of 1678, that it had taken place under the influence of party violence. The Popish plot most certainly he did not mean to support, to justify, or to palliate. But did not the situation of the kingdom sufficiently justify great heats and tempestuous passions? Were not the circumstances of the king having sold himself to a foreign power, and the heir of the Crown having declared himself a Roman Catholic, sufficient grounds of apprehension? As all the courts of the kingdom at that time, as well as parliament, acted under the influence of these heats and that many people as worthy of compassion as lord Stafford suffered tamely perjury and credulity, would not the same argument equally go to invalidate the proceedings of all? And, to be sure, the times which succeeded, in 1685, when the order for the continuance of impeachment was rescinded, were quiet and orderly! there was no distraction of counsels, nor threatening of public disturbances! The truth was, that that parliament, however they might be accused with an obsequious disposition, in this instance acted wisely. They were silent on this point, which, in the situation of affairs, they found it inexpedient to carry. But does there appear in the transaction of rescinding in form the vote of 1678, no sign of the spur of the times? Why, it is spur-galled from shoulder to flank. Compare the two proceedings. In 1678, parliament adhered to a settled rule; their proceedings were regular and consistent. But if we examine the proceedings of 1685, we shall find that only that part of the order was abolished which related to impeachments, while that part which related to writs of error and appeals was allowed to remain in full force; an anomaly, which evidently bears the mark of the particular occasion by which the measure was dictated. Opposed to this anomaly, we have on our side a system, clear and decisive, recognized as a principle of the constitution and adopted in its practice. The right of impeachment never dies, but by judgment or dereliction, and the proceedings of the Commons are as immortal as their public capacity.

Mr. *Paulet* contended, that impeachment by the constitution ought not to abate. There were many new members in the present House of Commons, yet he was persuaded that they would support the impeachment as firmly as the late parliament had done, should the continuance of the prosecution be once determined upon by a vote of the House. But as much legal ability and learning had been exerted in support of the abatement of impeachment upon a dissolution of parliament, upon the authority of precedents, he submitted to the House the propriety of establishing a precedent by a special act of parliament founded upon the particular case, which should serve as a standing rule of law for the conduct of future impeachments.

Mr. *L. A. Grant* began by stating that he would not trouble the House with any description of his feelings which he supposed were pretty similar to the feelings

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of others who spoke for the first time; that much as he admired the wonderful exhibitions of eloquence which he had heard that evening and the preceding, yet he found himself unable to assent completely to the arguments contained in any of them. In his conclusion, he had the honour of agreeing with the chancellor of the exchequer, and the right hon. gentleman who lately sat down (Mr. Burke), while the reasoning which led him to it more nearly approximated to that by which the hon. gentleman (Mr. Erskine) had so ably maintained the opposite opinion. The principles upon which his opinion was formed were few and obvious—that we ought to regard the question as of a general nature, without any reference to the character of Mr. Hastings—that the House of Commons were bound by the decisions of the House of Lords, if any there were, of similar cases—that we were not to reason about precedents, and reject one and adopt another, but to give them authority according to their dates. The House was so universally agreed upon the propriety of waving any discussion of the merits of Mr. Hastings, that it was unnecessary to enlarge on it. Whether he merited the eulogium of an hon. colonel or the execrations of the managers, was totally foreign to the present question. The House was to investigate the general law relative to impeachments, not the merits or demerits of the person presently impeached. Gentlemen were divided very much upon the mode of investigating the law relative to impeachments; some conceived that the House of Commons was virtually a party in the decisions of the House of Lords, in cases of impeachment, and consequently were bound by these decisions. Others, that we were to be guided by reason and principle, without any view to precedent whatever. Others endeavoured to discover a medium between the two opinions, and to procure a determination resulting from the combined influence of precedent and principle. It might be from the prejudices consequent to a legal education; but law and reason appeared to him to unite in favour of the first opinion, viz. that we were bound by the decisions of the House of Lords. A learned gentleman (Mr. Erskine) had stated and illustrated a principle, in his humble opinion, of great authority in the present question, so clearly and forcibly, that he should not weaken it, by attempting to enlarge on it—That wherever a court of judicature has laid down rules for its own decisions, when the legislature does not dissent from them, it is understood to assent to them; consequently, parliament never having controverted the rules, with regard to impeachment, laid down by the House of Lords, as a court of judicature, was to be understood tacitly and virtually to have approved of them, and therefore to be bound by them. Besides, the House of Commons was not, by a legal fiction, conceived to be, but actually was, a party in all cases of impeachment, consequently every reason concurred for a strict application of the rule as to them. It appeared to him, that the very terms used by every gentleman in the debate of investigating the law of impeachment, implied clearly that there was a law; and if a law existed, where else was it to be found? The House was allowed to be in the exercise of their judicial, not their legislative capacity; we were to discover, not to determine—to find out, and to be guided by what the law was, not to decide upon what it ought to be. We might, therefore, make a new law for future cases, but this case seemed to him to be bound by the law as it stood: it seemed to him to be a corrollary perfectly evident from the foregoing proposition: though he mentioned it with all due deference, as every gentleman he had heard had proceeded upon an opposite supposition, that we were not entitled to reason about precedents, to repel one and adopt another, but ought to give them authority according to their dates. If the House were to make a law, the reasons of the several decisions certainly would be the proper object of discussion; but being to declare law, it did not appear to him that we were entitled to go beyond their actual existence. Besides, from the opposite reasoning which had been urged, with regard to every precedent, we might easily judge of the propriety of expecting any agreement upon that head. The House had heard a great deal on that and the preceding night, about parliamentary law, and paramount constitutional law, and so forth; for his part, he must confess, that in the way they were employed, they seemed to him to be grand words without a meaning. He could neither see the propriety nor the import of the terms "parliamentary law, &c." used, not as denoting a part of the law of the land,

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but what was opposite and superior to the law of the land: and why? because he could not see a medium between law and volition. Exclude the idea of external physical violence, and where is the third actuating motive of human conduct, besides law and will? Gentlemen seemed to him to have law in their words, and will in their meaning; to talk of parliamentary law, and reason about parliamentary power. If the House was to be bound by no law, let gentlemen say so plainly: he, for one, would never assent to such a doctrine, because he had not run over the many precedents which the House had heard so fully enlarged on, to show that arbitrary power was a dangerous engine, and might be, in fact had often been, abused, even by that House, in the cases of impeachment; nor did it require demonstration to show, that as man was still made of the same materials, power might be abused again. But if will was to be the rule, it was much better to have it open than disguised, and it was much better to discard precedents at once, and appeal to general principles, than to pick and twist them according to inclination. His opinion, however, upon this question was built on these two principles—that the House was bound by precedents—and that precedents ought to have authority according to their dates. He would not trouble the House with a general recapitulation of precedents, but state a short point, upon which he conceived the question to turn. Indeed, he would take the liberty to say, that in most cases the investigation of truth would be much facilitated, if opponents in argument stated clearly and determinately the points upon which they differed, and, if he might say so, came to close quarters.—In 1678 the House of Lords laid down a general rule founded upon an examination of precedents, declaring that a dissolution of parliament did not affect an impeachment. That rule was in force until 1685, when upon the spur of the occasion the Lords reversed their rule, and applied the new one, *ex post facto*, to the case of lord Danby. This last rule never was formally reversed, and regulated all cases until the case of the same lord Danby when duke of Leeds, in 1701; the last case of impeachment concluded, for the disagreement of the Lords and Commons prevented any decision upon the case of lord Oxford. The duke of Leeds was impeached in 1695. The impeachment lay over from non-prosecution by the Commons all that parliament. A new parliament met in 1701, and the impeachment is dismissed by motion in the House of Lords, on account of non-prosecution. The chancellor of the exchequer had clearly proved that this dismission, on account of non-prosecution, implied that the impeachment had not, *ipso facto*, abated by the dissolution of the parliament, and consequently that this decision, *quoad* its ability, operates as a reversal of the last general rule of 1685. Now the hinge upon which our decision, in his humble opinion, ought to turn, was this: was this last decision of 1701 sufficient to overthrow the last rule of 1685, and the decision following thereon? He was of opinion that it was; and consequently that the impeachment of Mr. Hastings had not abated.

Sir *Charles Gould* was in favour of the continuance of the impeachment from the precedents that had been insisted upon in the course of the discussion of the question. He hoped never to see such a violation of the law of parliament, as that an impeachment should abate upon the contingency of a prorogation or dissolution. If judicial proceedings were to determine upon such events, the Crown could interrupt at pleasure the course of justice, and defeat every patriotic effort to punish state delinquents. The power of impeachment was an inherent right in the House of Commons. He hoped never to see the time when it should be called into question, or explained away by any decision of the Lords.

Mr. *Mitford* said, that the country had been much indebted to the lawyers for the happy mixture of the powers so well poised in the constitution, from which it derived its principal beauty and excellence. The right hon. gentleman should recollect to whom the preservation of the forms and precedents were to be ascribed. He professed a warm attachment to the constitution, and observed, that one inherent principle in it was, that the Crown commanded the activity and exertion of its different powers. In support of this position, he referred to the general administration of justice; instanced the hardship attending the discontinuance or revival of suits in ordinary courts of judicature; and observed there were always days appointed for putting in appearances. The same rule of law, obtained in the parliament; by the king's proclamation a

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session was to be held upon a particular day; and upon the authority of lord Coke every session is a new parliament. That new bills are usually brought in. There was a great difference between writs of error and appeals, and an impeachment. Writs of error and appeals were regulated by the laws and customs of the realm, modified by the usage of parliament but impeachment was always governed by the law of parliament only: upon a dissolution impeachments must abate, since a person impeached is put without a day, and that consequently entitled him to his discharge.—He next contended, that the House had no power to revive an impeachment, since it is an acknowledged principle in the constitution, that the parliament should die, and all its proceedings determine with its existence. He would have opposed every resolution *in statu quo*, had judgment been demanded by the last parliament against Mr. Hastings; because he was not in the House for two years after the impeachment had been prosecuted; and therefore, as he could not have heard the whole evidence, he could not in conscience vote for such a resolution. Such was the case with many members in the present parliament; as they had not heard any of the evidence, they could know nothing about it. The question was, whether the impeachment was depending? He was clearly of opinion it could not be depending, as it died a natural death at the dissolution of the late parliament.

Mr. *Dundas* said, that in differing on this subject with many hon. and learned friends with whom it was his good fortune generally to agree, he hoped the committee would believe that he still retained for their judgment the highest respect, and that he was prompted to deliver his sentiments from a feeling of his duty, on a question of the highest public importance that had occurred in that House for many years. It was necessary, in discussing this question, to consider, in the first place, what was the sort of judicature before which an impeachment was to be tried. The high court of impeachment was composed of the hereditary branch of the legislature; of the Lords of parliament, but whose authority did not depend on the sitting of parliament, although it was during the sitting of parliament that they exercised their authority in judicial proceedings. Like the judges between term and term, they did not in the recess exercise their functions, but in the recess their functions were not extinguished. The moment that the king affixed the great seal to the patent of peerage, the dignity and all the privileges and functions that belonged to it, continued to the person during his natural life without abatement, and at his death, descended and continued in his blood without change or diminution. The meeting of parliament was to them, therefore, no more than a notice and direction from the Crown to proceed in the exercise of their privileges, but which the Crown could neither take away, abridge, nor render void.—Such was the case of the judges in impeachment. What was the case of the prosecutors, and what was the right? The prosecutors were the Commons of Great Britain, of whom the Commons House of Parliament was the organ and instrument. He would recur to the very memorable argument of his right hon. friend (Mr. Pitt) an argument which had made so forcible an impression on the mind of every gentleman who had the good fortune to hear it, to prove that the great constituent body of the people of England possessed the accusatory right of impeachment incessantly; that it was a right necessarily and physically existing at all times, and could neither be taken from them, nor abridged by any change which they might make in their agents or attornies, the House of Commons, whom they choose to conduct such impeachment. If therefore, neither the judicature before whom the matter of impeachment was to be tried, nor the accusers on such impeachment, were either politically or physically annihilated by dissolution; if it was true, that though the means of acting were for a time suspended, the right remained, it followed, that every judicial proceeding in which they happened to be engaged before such suspension took place, revived on their meeting again in the proper capacity to put in motion their inherent rights; and that during every such interval every such proceeding must be still depending in the state in which it was left.

To prove that this was the opinion on the case of lord Danby, Mr. Dundas proceeded to show that the Commons were so jealous of all interference with their rights, that they would not suffer a lord high steward to be thought necessary to the trial of an impeachment, because it

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might give to the Crown the means of interfering in such trial, or by refusing to appoint a lord high steward, to prevent it. They maintained, that no right in either of the other two branches of the legislature should interfere with their right of impeachment: such was their sensibility on the occasion, that they would not suffer either the Crown or the House of Lords to touch their solemn privilege. If he had succeeded in proving this jealousy to have been an active principle of the House, surely they would not now entertain the proposition that they should recur to the Lords Journals, to inquire whether they ought or not to exercise this right. The right which they indisputably enjoyed as a fundamental privilege, it was essential that they should enjoy substantially and effectually—that they should have the means of protecting and securing the beneficial exercise of it. Now, this they could not enjoy, if the Crown by the exercise of one of its prerogatives, could destroy and annihilate the proceeding on the right. It was obvious that the subject of their impeachment was likely to be a person in high power and office. He might be the very person whose duty it was to advise the King in the exercise of this very prerogative of dissolution. And thus, by this doctrine, the very essence of impeachment might be destroyed, and a bad minister protected against all the powers of the people. This, he averred, was inconsistent, not only with common sense and reason, but with the cause and practice of parliament, upon which so much stress had been laid; much obloquy had been thrown on the proceedings of the long parliament, although to the wisdom and bravery of that House of Commons we were indebted, as a learned member had said on a former night (Mr. Adam) for the germ and seed of almost all the valuable privileges we now enjoyed. To that House we owed the habeas corpus act; to that House we were indebted for the wholesome doctrine that a pardon was not pleadable to an impeachment, and many other constitutional points, as well as the great doctrine of the continuance of impeachments. Instead of obloquy, they should be viewed with reverence as the champions of the rights of the people, and should be held up as monuments to posterity of the great advantages to be gained by manly perseverance, and vigorous consistency.—He reprobated all argument derived from the particular case; the length of the pending trial; the circumstances of Mr. Hastings, &c., because they had nothing to do with the principle. If instead of the length of the trial of Mr. Hastings, it had begun in May last, what would be the argument from the dissolution that immediately followed? Grant the principle, that a dissolution puts an end to an impeachment, and it may be quashed in the first month as well as in the third year. In like manner he equally reprobated all allusions to the conduct of the managers. They were unreasonable and irrelevant. If gentlemen found fault with the length of Mr. Hastings's trial, or with the manner in which it had been conducted; if there were any differences of opinion on these subjects, there would be a fit season and a proper question for them by-and-by.

On the subject of precedents, Mr. Dundas said he would be short, and endeavour to be explicit. It struck his mind as a most singular thing, that when their own journals were pure and spotless of any opinion, much less instance of denial, they should refer to the Journals of the House of Lords, to learn what where the privileges of the House of Commons. It was a memorable and a pleasant reflection that there was not one single *dictum* on the Journals of the House of Commons against the doctrine, nor even a surmise; and why they should give up their own books, and fly to others for a knowledge of their own rights, he was utterly unable to account. What was the popular argument advanced for the whole mart of impeachments? That the evidence could not be known to the accusers personally, and that they must trust to written minutes, of the truth of which they were uncertain; and a fine sentimental allusion had been made—that a feather from a sparrow's tail should not be plucked without evidence to justify in conscience the punishment. Mr. Dundas begged leave to oppose plain practical sense to any theoretical thing of another description. What was all this appeal to the heart on the duty of hearing evidence *vivâ voce*, instead of reading it when truly written? Was it to be established as a principle that to the pure administration of justice, memory must alone assist the judgment unrefreshed by minutes? If an impeachment should last seven years, that is, during the whole of the possible length of a parliament, the memory must

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hold out, as they could not conscientiously demand judgment, if their recollection was assisted forsooth by referring to the notes that had been taken; and if God Almighty had not blessed him with a memory of this retentive kind, he was to be deprived of all exercise of his judgment. Mr. Dundas reprobated this mode of reasoning, and said, that if the House of Commons had the right of impeaching, they must also have the right of bringing it to effectual issue. Why should they who had only to make up their minds on the evidence to justify them in demanding judgment, require more precise means of knowledge than the noble lords who had to give judgment? Why set up a wild theory against plain sense? The House of Lords have directed the evidence to be taken down in writing, and to be printed, and why not refer to it as the means of assisting the memory? If they were not to judge on written evidence, in what a predicament did they place the sovereign? To him, both in the exercise of his most pleasant and gracious prerogative, that of mercy, as well as in that of his most afflicting duty, the enforcing the execution of justice, the chief magistrate of the kingdom had only written hearsay evidence to trust to. His majesty could not judge from what he read, or from what he was told; and yet it was never imagined, much less imputed to the exercise of these royal prerogatives that the king's judgment had been led by defective evidence. This must be admitted, unless it should be stated that his majesty was always to be considered as present in every court, and as master of every part of the evidence. The fiction of the courts below would hardly be introduced into that House; although to the fictions of the courts below, and technical analogies without resemblance or spirit, had so much reference been made. — Mr. Dundas wished that his learned friends had adduced all their doubts and difficulties at a more seasonable time. Did it not occur to them in the course of the last three years, that a dissolution of parliament would appear? And were they so little solicitous of public justice as not to mention their hesitations on the case in time to have provided a remedy? Was there no moment for doubt but the present urgent moment, when the House was reduced to complicate the question of privilege with the personal question of Mr. Hastings? But the question of privilege was too important to admit of any mixture, and he was solemnly of opinion that the dearest rights not only of the Commons of England, but of the empire, that it should be now clearly and finally settled, that a dissolution of parliament did not annihilate an impeachment.

The *Solicitor General* said, he would state a few propositions to the committee as distinctly as possible, and endeavour to make himself clearly understood in the argument which he wished to urge to their consideration. He was desirous of ascertaining the clear meaning of the proposition before the committee. Did the word "depending" mean depending *in statu quo*? To come to the knowledge of this fact, he had asked a question on a former night, but had not had the good fortune of a precise answer. If the question meant that it was depending *in statu quo*, he would not hesitate to declare that it outraged every idea he had of judicial proceeding. In his mind, so far from its being a proposition, the maintenance of which was essential to the privileges of the Commons of England, it was a doctrine that militated against their privileges They gave up their privileges in giving up the point of abatement, since one of the most essential privileges of the people was security and protection against the indefinite, protracted and tedious trial, to which the doctrine of non-abatement led. It was his clear and decided opinion, as far as he had been able to make up his mind on the subject from the authorities he had consulted, from what he had heard, and from the stretch of his own reasoning faculties, that it was not only abated as to the *statu quo*, but abated with respect to the record in the House of Lords. The right hon. gentleman who spoke last, had asked if the House desired to have better means of judgment than the sovereign, who exercised his prerogative of pardon on written or on hear-say evidence. Was, then, the royal clemency to be subject to the same strict rules of evidence as a court sitting in judgment? Surely not. In either of the cases to which the right hon. gentleman alluded, the sovereign had to execute his prerogative on persons duly tried and convicted by their peers. In that conviction, or in their going up to the bar of the House of peers to demand judgment on a person whom they had impeached, it required that their opinions should be guided by the most rigorous rules of evidence.—Sir John asked

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if the last House of Commons could bind the present by any one of its resolutions? If it had the right to do so, it must have also the means; it could not: nor could a blade of grass, the property of any gentleman of landed property, nor the smallest coin, the property of any monied man, be touched by any resolution of that House; then how could a resolution of the House hold a subject of this country, bound to answer from year to year? The right hon. gentleman said, shall a minister advise the king to dissolve the parliament, that he might free himself from an impeachment. Sir John said, he would answer, that perhaps the king might be properly advised to dissolve the parliament for the purpose of seeing whether the impeachment they had brought was countenanced by the people—Precedents, where they militated against truth and justice, were to be received with jealousy; but they were always to be considered most attentively, because if they had, by their uniformity, constituted a rule of law, it was wise and prudent that they should not be rashly departed from. Did he desire too much in requesting time to be able to search for the true rule of law in the concurring precedents on this case? Sir John here went into a review of the leading precedents from 1673 downwards, and argued from them precisely in the same way as Mr. Hardinge, Mr. Erskine, and others. Here, he said, he had precedents, uniform and concurring, except in the solitary instance of 1678. If he was wrong in drawing the conclusions which he did from them, he could not help it, he had done it to the best of his judgment. And now he came to consider the question in a more important point of view—in pure reason, abstractedly from all precedent. If the precedents were absurd, yet if they had made a rule of law, and that rule of law was established and understood, it was of more consequence that that rule of law should be acted upon, than that this impeachment should be continued upon any abstract principle of theoretic benefit. Let the rule be solemnly altered; but let that be done by an act of the legislature; and do not let us abet a side-wind proceeding against the rule so established.—The continuance of the impeachment was further illegal in his mind, because it was not before the law judges, nor prosecuted by the same accuser as in the outset. The integrity of the cause was violated, and it was an invariable rule in criminal jurisprudence that the judges and the accusers should be the same throughout. He mentioned the instance first quoted by Mr. Erskine from lord Coke, of a man who pleaded to a new indictment in bar of their proceedings; that he had been convicted before, and that he held in his hand the verdict; upon which, however, judgment could not be passed on him, because the judges were changed. He desired to know whether in the case of lord Ferrers, if a dissolution had taken place, it might not have been pleaded in bar to judgment? He averred that the Crown ought to have the right of dissolving, for the purpose of abating impeachments, to see the sense of the people. And if the second House of Commons should think fit to revive the charges, they should see the whole case, or otherwise they could not conscientiously make up their minds. —He was astonished to hear Mr. Dundas say, that the Lords having appointed minutes to be taken, furnished thereby good evidence for the new House. He denied that fact. The demeanor of witnesses went a considerable way in determining what degree of credit was to be given to their evidence. The reference that had been made to the court of chancery was idle, because in civil causes, the rigour of evidence was nonsense in comparison of what it was in criminal procedure. He wished for delay, to know in what cases the House of Commons was bound by the resolutions of a former House. He confessed he knew no one case. Not even in laying on taxes, although they held the purse strings of the nation, would they think themselves bound to take up what the former House had done as a rule to them.

Mr. *Fox* said, that after the question had been so fully debated, the committee could not be expected to listen with much patience to any additional arguments upon it. The constitutional principle had been so ably and so eloquently supported on precedent, analogy, and reason; the fallacies urged against it so completely exposed, and the arguments so fully confuted, that he was afraid that to say any thing further upon it, would have more the appearance of personal vanity, than of a desire to convince. He should, therefore, have been contented to leave it where it stood; but that having been always zealous in supporting the privileges of the Commons, and, on some oc-

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casions, contrary to the opinions of those with whom he agreed on other points, he thought it his duty to give something more than a silent vote in support of a question, in the fate of which all their privileges were involved. The question was, indeed, of great importance. Of such importance, as he defied human wit, or human eloquence to exaggerate—no less than whether the constitution of the country was a free constitution, under which every act of government was subject to inquiry, and accompanied with responsibility; or whether power might be exercised without control, and without any national inquest to take cognizance of its abuse. Those who disputed the right of the Commons to proceed on an impeachment after a dissolution, had argued from a repetition of the same precedents, first referred to, and very ably commented upon by the hon. and learned gentleman who first opposed an immediate decision. All the arguments on those precedents had been answered with so much ability by the chancellor of the exchequer, as to render any other answer unnecessary. Of this, those who contended that the Commons had no such right, seemed to have been aware. They appeared to have said to themselves "the first speech on the precedents contained all that can be urged with any plausibility. That speech has been so fully, so irresistibly answered, that all we can now do is, to weaken the impression of the answer by repetition; if we cannot convince, we may yet confound." Repetition was accordingly tried, in hopes that the second answer might be less able than the first. In this, however, they had been disappointed, for a second answer by another right hon. gentleman (Mr. Dundas) had as completely demolished the repetition, as the first overturned the original arguments. Another attempt, however, was made. The routed precedents were again rallied, and brought into the field by another learned gentleman (sir John Scott), who declared that he could not conscientiously vote that an impeachment after a dissolution remained *in statu quo*, unless he was first satisfied that such a principle was agreeable to the practice of the courts below. This third attempt, he feared, would be too successful, inasmuch as the answer which he should give would be much less able than either of the preceding.

It was not his intention to dwell much on the precedents which had been so repeatedly and so ably discussed; but to rest his argument on the general principle, that whatever was inconsistent with, or subversive of a free constitution, could make no part of the law under that constitution. On the precedents, however, the learned gentleman who preceded him, had brought only one new authority, the authority of lord Danby on the state of his own impeachment, an authority just as good as the opinion of Mr. Hastings would be on the question before the House, and of which the learned gentleman was welcome to the full value. The clear and express resolution of 1678, adopted on the plain analogy of other judicial proceedings in parliament, on careful search of precedents and mature deliberation, that resolution on which lord Stafford had been tried, convicted, and executed, had been arraigned as an arbitrary resolution, made in bad times to serve a particular purpose, and contrary to the former practice of parliament. The peculiar hardships of lord Stafford's case had also been pathetically insisted upon, as if any hardship or informality in a particular case would affect the general principle.

After what had been stated with so much precision and so much truth of the times of Charles 2nd, it would not again be contended that they were bad times in parliamentary law, or that any precedent derived from them was to be suspected merely on that account. The fact was, that the times, in a constitutional point of view, were good. All that could be charged upon them was their credulity. The people, harassed and alarmed by repeated attempts on their liberty, were, perhaps, too ready to listen to those who wished to take advantage of their fears; but while some of their acts, viewed coolly, and at a distance, might be blameable, the principle on which they acted was good. The condemnation of lord Stafford, viewed, as we were now enabled to view it, divested of fear and credulity, and convinced that Oates and Bedloe, the principal witnesses against him, were impostors, we must naturally lament. But every man who had perused the printed account of his trial, must admit that it was perfectly regular in point of form, and that the verdict of his peers, believing, as they did, the evidence of Oates and Bedloe, was a just verdict, and such as they were bound in conscience to pro-

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nounce. In those times, which were reprobated as incapable of affording a precedent fit to be followed, every question necessary to stop an impeachment, by the exercise of the king's prerogative, had been tried, and all had been baffled by the vigorous and constitutional exertions of the Commons, and ever since completely settled. The king first tried to stop the impeachment by refusing to appoint a lord high steward. The Commons contested the point, agitated it with the Lords, and it ended in settling the commission of a lord high steward, by inserting words which have ever since stood in the commission, and which make the lord high steward not a necessary part of the court of the House of Lords. Thus the Commons, without an act of parliament, established that the king could not stop an impeachment by refusing to appoint a lord high steward, because that office was determined to be unnecessary. The king next tried to stop the impeachment by granting a pardon to lord Danby. But here again the prerogative of the king was routed by the privileges of the Commons. He would not discuss the point agitated in the conference; it was too clear; the Lords disallowed the pardon as a plea in bar, and such a measure had never since been attempted.

Disappointed in all these means of saving lord Danby, the king resolved to dissolve the parliament. Here again he was foiled; the new House of Commons took the business up with the spirit of the former, and arguing on the true principles of the constitution, they enforced upon the soundest doctrine and clearest precedents, that notwithstanding dissolution, an impeachment remained *in statu quo* to be proceeded on by the new parliament. The guilt of lord Danby was, perhaps, as much the guilt of the king as his own. The king had employed his favourite to sell the interests of his people to a foreign power, and to barter away the dignity of his crown for a disgraceful pension to himself. Being so implicated in the crime, he was naturally anxious to protect the instrument of it, and for that purpose resorted to every exercise of his prerogative which the advice of his minister or his own ingenuity could suggest. Of every one of his measures on that occasion, they had a direct parliamentary condemnation. When he refused to appoint a lord steward, the appointment was pronounced unnecessary. When he dissolved the parliament, it was declared that an impeachment did not abate by a dissolution. Fortunate it was for the country, fortunate for posterity, that the king had had recourse to those manœuvres, because it had been the means of establishing beyond a doubt, that no shift or evasion, no abuse of prerogative, no collusion between the crown and the criminal, could defeat an impeachment by the Commons.

The resolution of 1678 did not make the law, but declared what the law was before, and it was illustrated and confirmed by the proceedings of 1690. He was astonished that the learned gentleman should have seized on the precedent of 1690, with so much eagerness, after the inference he attempted to draw from it had been so completely demolished by those who spoke before him; and admitting the inference, if it was before the law of parliament that an impeachment did not abate by a dissolution, the solitary precedent of the duke of Leeds could not alter it. On the times in which the resolution of 1678 was made, the opinion of men who spoke of them without reference to any particular question, but on a general view of our history and constitution, would far outweigh all that had been said as applicable to the present case. Judge Blackstone, whose opinion was justly in high esteem, had said, that the parliament known by the name of the long parliament of Charles 2nd was deserving of the highest praise in a constitutional view. In the body of his work, he enumerates many different regulations which were the work of that parliament, and says that they demonstrate this truth, "that the constitution of England had arrived to its full vigour, and the true balance between liberty and prerogative was happily established by law, in the reign of king Charles 2nd." And in a note on that passage, he says, "The point of time, at which I would choose to fix this theoretical perfection of our public law, is the year 1679; after the habeas corpus act was passed, and that for licensing the press had expired, though the years which immediately followed it were times of great practical oppression." When he granted lord Danby a pardon, it was determined that the king's pardon was not pleadable in bar of an impeachment. The order of 1678, declaring the law of parliament, was therefore entitled to as much respect as

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any other act of those great men who had done so much for the confirmation of our liberties. On this point the opinion of judge Forster, which no man would treat as a light authority, also concurred. He declared expressly that in 1690 the lords Peterborough and Salisbury were discharged under the general pardon, and not because the impeachment preferred against them abated by a dissolution of parliament; and added, that it would be harsh to say, that after a prosecution was begun the high court of parliament should not be able to proceed to judgment, the end of all prosecution, without supplemental powers from the Crown. Harsh, indeed, it would be, and ruinous to every principle of constitutional check and control by the Commons!

In settling every contested point of law, he would first look to usage and then to reason. There was a great distinction between the ordinary law in the common courts of justice and the constitutional law. For the former he would look to usage, where that could direct him; but for the latter he would look to reason in preference to usage, and for this reason: in ordinary cases certainty was of more value than soundness of principle, but in constitutional law soundness of principle was every thing. Certainty of usage, on a constitutional point, if that certainty was against him, served only to increase his despair, and to drive him to the last desperate remedy for desperate cases. The law of impeachment was not to be collected from the usage of the courts of justice—for whom was it meant to control? He should be told, men in high stations who might commit crimes that the common law could not reach; but he should answer, first and principally, the courts of justice themselves. Let the power of impeachment be rendered nugatory, and what security was there for the integrity of judges, and the pure administration of justice? *Quis custodiet ipsos custodes?* Were it to be governed by absurd or iniquitous rules of practice, what abuse could it correct? He would not imagine extraordinary cases of enormity in judges although their responsibility by impeachment was the surest pledge for their integrity. But suppose them so devoted to the Crown as to give such a decision as had been given in the case of ship-money. Suppose them, as in the reign of Charles 2nd, so pliant to the prevailing party of the day, as to hang whigs one day and tories another, under form and colour of law, what remedy was left if that of impeachment did not apply? Were a judge even to attain to that enormous pitch of arbitrary wickedness, as to order a man to punishment who had been acquitted by a jury, there was no mode of proceeding against him but by impeachment. When he considered all this, he could not but lament to see gentlemen of the profession of the law in that House, with some very honourable exceptions, indeed, acting, as it were, under an esprit de corps, forming themselves into a sort of phalanx to set up the law of the ordinary courts of justice, as paramount to the law of parliament, as if they intended, what had been charged on the parliament of Paris, to erect an intermediate republic between the king and the people, to embarrass the one and domineer over the other. With regard to the force of precedents on constitutional points, had the dispensing power claimed by the Stuarts been decided by precedent, it might, perhaps, have been found to be good. But would any man regard a precedent in such a case? Must he not perceive that a legislature, and a dispensing power in the Crown were things incompatible; and that wherever any usage appeared subversive of the constitution, if it had lasted for one, or for two hundred years, it was not a precedent, but an usurpation?

But where this new law of impeachment which was offered to them failed, they were told they might proceed by a bill of pains and penalties. What was gained by this, unless it could be made appear that a bill of pains and penalties could not be stopped in its progress by the Crown? Such abuses, it was said, were not to be supposed. When control was removed, all abuses were to be supposed. Again, they were told, that if a minister advised the Crown to dissolve the parliament to get rid of an impeachment, they might impeach him again. By the same rule he might advise to dissolve them again; and so they might go on impeaching and dissolving alternately, with no other effect than a mockery of justice. The learned gentleman who spoke before him had talked of referring an impeachment to the people by a dissolution. Although the king's pardon was not pleadable in bar of an impeachment, the learned gentleman thought that

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the king, if he should be of opinion that a person impeached was a fit object of clemency, might, by dissolving the parliament, take the sense of the people at large, whether the impeachment ought to be renewed, and with their acquiescence produce all the effects of a pardon. If this was the learned gentleman's meaning, the true mode of carrying it into effect was on the principle that an impeachment did not abate by a dissolution. The king, by dissolving the parliament, might suspend an impeachment; and if the new representatives chosen by the people should be of opinion that it ought not to proceed, there it must end, and the object of an appeal to the people would be completely obtained. But were it established that an impeachment after every dissolution of parliament must begin *de novo*, the people, however zealous in the prosecution, could never have the means of bringing it to judgment, without the concurrence of the Crown, and to dissolve the parliament would not be to take the sense of the people, but to foil them in the exercise of their most important privilege.

It had been remarked, that he himself had insisted at the bar of the House of Lords on the right of the Commons to frame new articles of impeachment in any stage of a trial in which they were prosecutors, and even to make the prisoner's own defence the foundation and materials of such new articles. This had been considered as a harsh and rigorous extension of privilege; but it was, nevertheless, an undoubted right belonging to the House, whose power and privileges were great, because their discretion was supposed to be great; and he had insisted upon it not as a right to be exercised on trivial occasions, or a right on which he meant to act without an adequate cause, but merely as a constitutional principle from which to draw an argument in support of another point for which he was then contending. But if the exercise of this right was considered as a hardship, how much greater would be the hardship if an impeachment were stopped by a dissolution just as the prisoner had concluded his defence, and the Commons on the meeting of the new parliament were to proceed to frame an entire new set of articles against him with his whole defence before them? Yet such might be the situation of any man, against whom an impeachment was preferred, according to the doctrine of the learned gentleman. Another learned gentleman had said, that the points on which the law of parliament turned were of such nicety that none but a lawyer could understand them. The supposed nicety proved the falsity of the argument. Were the case so, how could the law of parliament be ever understood by men of common education and plain understanding, such as composed the great majority of it? Much more, how could it have been established by men of still more ordinary education, who composed the majority of the House of Commons, when the theory of the constitution was developed and explained?

The next objection was the want of evidence. They had, it seemed, no knowledge of the proceedings on the impeachment during the late parliament, and there was no evidence on which they could judge whether any thing had been proved by the managers appointed by the late House of Commons. It was somewhat strange that professional men should be so profoundly ignorant of what was known to all the world beside. But they could listen only to oral evidence; the minutes of the evidence taken down and printed by the direction of the Lords for their own information were to lawyers of no use whatever; and the learned gentleman who spoke immediately before him, who unfortunately had not attended the trial; who had not heard the evidence; who had no materials on which to form his judgment; who could not suffer himself to read written minutes of written evidence, such as composed the greater part of the evidence on the trial; and who was so conscientious that he would not, as an accuser, pray for judgment against a man, who, for any thing he knew, might be innocent; had asked how he, as a member of the House of Commons, could go to the bar of the House of Lords, and demand judgment against Mr. Hastings, supposing him to be found guilty? When the learned gentleman came to be attorney-general, he would, without any scruple of conscience, move the court of King's-bench for judgment against all persons convicted on informations or indictments by his predecessor in office: and that on much weaker evidence than the minutes of the impeachment, which he was resolved to consider as no evidence at all; on no other evidence than a copy of the record; and when he came to be a judge, he would even pronounce judg-

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ment on what he must consider as still weaker evidence, namely, the notes of a brother judge. It was well known that nine-tenths of all the misdemeanors were tried at sittings, and the record being returned to the court from which it issued, sentence was there pronounced by judges who had heard no part of the oral evidence; who had seen nothing of the demeanor of the prisoner or witnesses; who had no knowledge whatever of the case or its circumstances but what they had derived from the notes of the judge who tried it. Nor was this all; affidavits, both in extenuation and aggravation, might be and were frequently, produced and read; and on this sort of evidence, which was thus gravely represented by professional men as no evidence at all; on the written evidence of a miserable note-book, rendered still more informal, suspected and worthless, by the addition of written affidavits; on evidence of such contemptible authority, that if those whose business it was to understand it best were to be believed, it ought not to be of force to pluck a feather from a sparrow's wing, would the learned gentleman when advanced to that bench on which he should rejoice to see him, decide whether a fellow-subject should be fined a shilling or ten thousand pounds whether he should be imprisoned in the King's-bench for a week, or in Newgate for three years!

What could he say on such attempts by men learned in the law to impose upon the plain sense and unlearned understanding of the House, but with his right hon. friend (Mr. Burke), that gentlemen of the long robe being accustomed to find the reward of their talents elsewhere, thought the waste and offals of their learning good enough for the House of Commons? If the learned gentleman had not been present at the trial, it was his own fault; and it was the first time that he had heard a man urge his own neglect of duty, as a reason for abridging the privileges of the body to which he belonged. On this point, however, he would endeavour to set him somewhat more at his ease. It was proper that he should have been present at the trial, because the House had ordered it; but it was not necessary. There were two ways in which the House proceeded on impeachments. In one they attended as a committee of the whole House in Westminster-hall, and in the other they appointed a private committee, as in the case of lord Macclesfield and others, who managed the prosecution at the bar of the House of Lords, and where none of the rest of the members had any more right to be present than any other subject. In this mode the House having decided that there was ground for an impeachment, committed the management to a private committee, in whose report they confided; and if their charges were proved, prayed for judgment. The application of the principle to the other mode was obvious. Although the House attended *pro formâ* as a committee of the whole House, it was neither required nor expected that every individual member should attend! and, in this case also, they trusted more to the report of their managers than to their own observation of the proceedings. From the managers, however, the learned gentleman could receive no information. They were a committee no longer, having, like every other committee of the House, been dissolved by the dissolution of parliament. When a new committee was appointed, that committee would have all the necessary documents in their possession, and be able to give the House whatever information might be wanted. It was asked, if all their proceedings did not cease with a dissolution? Precisely those, he would answer, that ceased with a prorogation. On a prorogation, all votes of money, and all bills depending fell to the ground. So they did on a dissolution. By a prorogation the state of an impeachment was not affected. No more was it affected by a dissolution. During the interval occasioned by either, the high court of parliament could not sit, any more than the courts of common law in the interval between term and term. When parliament met after either, judicial proceedings were taken up *in statu quo*, just as in the courts below after a vacation. In this manner had the proceedings on the impeachment been suspended by every prorogation of parliament, and the committee of managers dissolved. After the prorogation the committee had been reappointed, and the proceedings on the trial resumed. There was no difference between the present situation of the House and its situation after any of the prorogations since the trial commenced, except that having been sent back to their constituents, they might more properly review their former proceedings, to see what they would abide by, and what they would abandon.

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Were a minister, it had been said, to advise a dissolution for the purpose of putting an end to an impeachment, he would be guilty of a high crime. Were a minister to advise a dissolution pending an impeachment, knowing that it would put an end to the impeachment, he would deserve to be impeached himself. He did not mean to insinuate any reflection on the right hon. the chancellor of the exchequer. He had advised his majesty to dissolve the parliament at a time that he thought most convenient for the public service, and he had given the most substantial proofs that he did not believe it would affect the state of the impeachment. But if there were any persons in his majesty's councils who believed, and who meant to maintain, that a dissolution of parliament necessarily put an end to an impeachment, they were highly culpable, and ought to answer to their country for advising a measure, perhaps good in itself, but which they knew must defeat the ends of public justice. By the act of 1773, for inquiring into offences committed in India, it was provided that various parliamentary proceedings necessary for that purpose should continue from session to session, and from parliament to parliament, but not a word was said of impeachments. This was no casual omission, but an omission on principle, to which he pledged, not his opinion, but his veracity. It was in the contemplation of the framers of that act to include impeachments, and on the advice of the late Mr. Dyson, whose knowledge of the law of parliament had never been questioned, they were expressly omitted, that the undoubted right and privilege of the Commons might not be weakened by an indirect admission on their own part, that it was not clear.

It had been observed, that as the dissolution of parliament was generally expected, those who conducted the impeachment, and were anxious that public justice should not be defeated, ought to have brought in a bill to continue the impeachment over the dissolution, when they saw that the trial could not be concluded before it. Those who said so ought to recollect, that it was not the opinion of the managers that the impeachment would be affected by a dissolution. All that on them depended the managers had done. They had moved a resolution in the last session of the late parliament, that the Commons would persevere in the prosecution of the impeachment, till the ends of public justice were obtained, and the resolution had been adopted by the House. What was the conduct of those who thought that a dissolution would put an end to the impeachment? Did they apprize the House of it? No. When they saw the House voting that they would persevere in the impeachment, when they knew that a dissolution was approaching, which, in their opinion, must necessarily be fatal to it, instead of bringing forward their constitutional law for the information of the House, when such information might have been useful, they carefully concealed it as a snare, as a poison which then lay lurking in their minds, and which was now insidiously brought into action to destroy at once the law of parliament and the constitution. They had been advised to inspect the Lords' Journals, and to consider their own as of no authority. His hon. and learned friend (Mr. Erskine) had been the author of this advice:

Primum Graius homo mortalis tollere contra
Est oculos ausus.—

It was, he believed, the first time that a member of that House had advised to consult the Journals of the other for the privileges of the Commons, in preference to their own. If their own Journals could afford them no information, then, indeed, they might consult the Journals of the other House; or they might appeal to the Lords' Journals as corroborating the authority of their own on any point of privilege that was disputed by the Lords; but to search the Lords' Journals for precedents to controvert the authority of their own, and to make out a case against themselves, was what he never expected to hear proposed. They had on their own Journals an express declaration, that an impeachment does not abate by a dissolution of parliament; a declaration acquiesced in by the Lords, repeatedly acted upon by the Commons, and never once contradicted by a subsequent declaration; and it was strange, indeed, to hear the same learned gentleman who had laid it down as a principle, that an order of any court competent, acquiesced in for a series of years, and never afterwards annulled, made law, advising the House of Commons to consult the Journals of the Lords for the purpose of turning aside the clear and uniform stream of the law of parliament as it appeared on their own, for more than a century. He re-

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joiced not that the debate had taken place, though he rejoiced that it had been continued for such a length of time as to give every gentleman who thought it necessary an opportunity of delivering his sentiments. But let not those who had given occasion to it imagine that this was owing to any respect for their arguments. It was owing purely to his astonishment at hearing such arguments adduced. Were any man to affirm in defiance of the act of queen Anne, that parliament had no right to interfere with the descent of the Crown, that the act of settlement was not law, and that the house of Stuart, and not the house of Brunswick, had the only legal right to it, he should feel no apprehension that the proposition might be true, but he should desire time to recover from his astonishment, to repress the indignation which it must naturally excite, and to obtain for it such a free and temperate discussion as might procure the most solid and effectual condemnation of a doctrine so absurd and extravagant. Such a discussion the question before the House had received; and great as were the advantages which the nation had derived from the accession of the house of Brunswick to the throne, he considered the decision of it of as much importance to the constitution and the future happiness of the people, as whether the succession should continue in that House or revert to the house of Stuart. Next to the independent and free-born spirit of the people, the law of impeachment was their best security for the undisturbed enjoyment of their lives and liberties. It was their only peaceable security against the vices or corruption of the government; and let no man, by weakening or annihilating that, reduce them to the necessity of having recourse to any other.

To declare that an impeachment did not abate by a dissolution of parliament, with a view to prevent the improper interference of the Crown, had been called "muzzling the lion with a cobweb." After that privilege was asserted and established, the king, it was said, might dissolve the parliament when the Lords were on the point of pronouncing a prisoner guilty, or after he had been found guilty, and before judgment was given, and so afford him the means of escape; or, he might create fifty new peers in a day for the purpose of acquitting a state criminal. All this was undoubtedly true. He should lament to see the king's power of creating peers so abused; he should much more lament to see that power taken away; and it was a possible evil against which he could propose no remedy. But was it thus they were to argue, that whenever an ingenious man could point out some possible abuse against which they could not provide, they were to give up every security against that abuse which the constitution had put into their hands? No human form of government was ever yet so perfect as to guard against every possible abuse of power, and the subjects of every government must submit to the lot of men, and bear with some. But when abuses became so frequent or enormous as to be oppressive and intolerable, and to threaten the destruction of government itself, then it was that the last remedy must be applied, that the free spirit of the people must put into action their natural power to redress those grievances for which they had no peaceable means of redress, and assert their indefeasible right to a just and equitable government. No man would deny that cases might occur in which the people could have no choice but slavery or resistance; no man would hesitate to say what their choice ought to be; and it was the best wisdom of every government not to create a necessity for resistance by depriving the people of legal means of redress.

Let no man think that these were hard words coming from him on any personal consideration. He was animated by no such motive; but he felt it his duty to state, in plain terms, to what the progress of abuse must lead if the remedy was essentially weakened or wholly taken away. The alternative he had mentioned, every good man must deprecate as too dreadful in its probable consequences; and whenever sad necessity should urge it on, every individual who had a heart to feel for the calamities of his country, must deplore the exigency of the times. Nevertheless, they were to watch possibilities in that House with an eye of caution and jealousy, and should tyranny ever be enforced, he had no doubt but the gentlemen of the long robe, whose opinions on the question before the House he had felt himself obliged to reprobate, would contradict the sentiments they had chosen to deliver, by their actions, and prove by their zeal and activity, that they were as ready to lay down their lives in

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defence of their freedom, as any description of men whatever. He assured his hon. and learned friend (Mr. Erskine), that he had not forfeited any part of his regard by having held an opinion different from his own, on the subject of the three days debate; and for the rest of the learned gentlemen, he entertained great personal respect, though he felt none for their arguments.

It had been charged as an inconsistency on those who maintained the same opinion as he did, that when they opposed the appointment of a committee to search the Lords' Journals, they had argued from cases and resolutions to be found only in those Journals. But the charge was nugatory. It was perfectly fair to argue from the Lords' Journals, under protest that they would not be bound by them, because it was fit, in case of a dispute, to hear the ground of their adversaries argument, and turn it to their own advantage, if any advantage could be derived from it. It by no means followed as a consequence, that it was fit to search the Lords' Journals in order to make out a case against their own right.

Mr. Fox concluded with a short review of the precedents, contending, with irresistible clearness and force, that all except that of 1685 made against the abatement of an impeachment by a dissolution, and had been so understood by the courts of justice and the most eminent law authorities of the several periods; that according to the legal doctrine of precedents, the last precedent was the best, and that the last—the case of the earl of Oxford—was decidedly in favour of the right of the Commons; that if the argument on the precedent of 1685 was good for any thing, it proved that the Lords were not bound by the order of 1678, that their orders did not make law, and that the order of 1685 was completely annulled by their subsequent proceedings in similar cases, or might be annulled by a new order. He apologized for having detained the committee on the precedents, as it was not on precedent but on principle that he stood. The right of impeachment, proceeding without abatement from session to session, and from parliament to parliament, was the vital, the defensive principle of the constitution; that which preserved it from internal decay; that which protected it from internal injury; without which, every office of executive power, every function of judicial authority, might be exercised or abused at the discretion or caprice of him who held it, or of him who had the right of appointing to it.

Mr. *Yorke* complained in warm terms of the attack that had been made on the gentlemen of the profession to which he had the honour to belong. He said, that in all the critical events of our history, the lawyers had distinguished themselves as the friends of freedom, and that at the revolution, it was matter of notoriety, that the glorious event had been chiefly produced, and the constitution settled, through the patriot efforts and great abilities of the first gentlemen of the learned profession, who at that time had seats in the House of Commons.

Mr. *Fox* said, he had intended no reflection on the profession, but had felt himself bound to combat opinions, which he could not but consider as of the most mischievous and unconstitutional tendency. The manner in which he had spoken of lord chief justice Holt, lord Somers, Mr. Justice Foster, and serjeant Maynard, was a sufficient proof, that he had intended nothing like a general and illiberal reflection upon the gentlemen of the long robe.

The question being loudly called for,

Mr. *Erskine* rose to reply. He said, he was not surprised at the disposition of the House to terminate a debate of such unusual continuance; and that nothing but his being the author of it, would induce him to ask the indulgence of the House for a moment. He was too much accustomed to take the measure of men's minds from their deportment during debate, not to discover that his motion would have the support but of a very few within the House. He would not however relinquish it, but bring the question to a decision. He was happy in being supported by the almost universal voice of a profession, which he was sorry that it had been so much the fashion to cry down. He could not but complain of the manner in which Mr. Burke, in particular, had treated their arguments, particularly his own. He felt, however, no disposition to retaliate; he recollected the superior age, and the various extraordinary qualifications and genius of the right hon gentleman, though he seemed to have forgotten that he had been of the number of those who thought themselves entitled to his friendship and regard. The gentlemen of the law had been considered by him

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as no genuine members of the House, but as only perched there as birds of passage in their way to another. He could only say for himself, that if he had meant only to rest in that place, in the course of such a pursuit, he should hardly have lighted on that naked bough which supported him, but have sought the luxuriant and inviting foliage which overspread the opposite side of the house, which would have afforded him kind shelter, and have accelerated his flight.

Mr. *Burke*, in answer to Mr. Erskine, said, he had spoken in perfect good humour, and thought he had observed the House partake of it. He wished to hurt the feelings of no man; he esteemed the law highly, and approved of the country being governed by law, but not by lawyers. He had entertained a high respect for the hon. and learned gentleman's talents, for his great eloquence, and his uncommon aptitude at argument; he could not, therefore, but lament the loss of those talents, in support of that great constitutional cause, the impeachment of Mr. Hastings. The question that had been moved by him, was a question that involved in it their constitutional privileges; and therefore, when he understood that the hon. and learned gentleman had come determined to overwhelm his efforts, in the greatest and most important cause in which a House of Commons could be engaged, and found he had brought such slight materials with him, he could not but think that a fine natural flow of words without argument and prompt deliberation, rather than a studied and laborious endeavour to render himself equal to the great work he had so rashly undertaken, merited the sort of animadversion that he had thrown out on the hon. and learned gentleman, in common with all others who had fought on the same side of the question. With regard to friendship, it was, Mr. Burke said, if any thing, superior even to a love of one's country, as it was the source and spring, the animating soul, whence originated every other virtue; but what right the hon. and learned gentleman had to expect any particular friendship from him, that hon. and learned gentleman best knew. As to the subject of debate, he thought those who had chosen to defend the privileges of the House of Commons, had defended them so well, that they did not want the help of the hon. and learned gentleman, who had taken the field, like David against Goliah lightly armed with a stone and a sling, which could do no execution. Mr. Burke mentioned the pamphlet, that Mr. Erskine had reasoned from, and paid a compliment to Mr. Adam and Mr. Anstruther.

Mr. *Erskine* said, that the pamphlet was nothing more than a collection of precedents copied by a friend of his, for his greater convenience in referring to them.

The House divided on the question, that the Speaker do leave the chair: Yeas, 30: Noes, 143.

The original motion was then put, and carried without a division.

Debate in the Commons on the Malt Tax Bill.] Dec. 20. On the order of the day for the second reading of the bill for laying an additional duty on Malt,

Mr. *Hussey* admitted, that the greater part of the tax would be levied on those who could very well afford to pay the additional duty, but then it was to be considered that it would also fall on a truly meritorious part of the people, on whom it would operate as an oppression, and prove the bane of industry, by driving them to the alehouse.

Mr. *Martin* said, that instead of this tax on malt, there were others that might be resorted to, which would produce money, without injury to the poor. There was one tax in particular, which he had, on a former occasion, mentioned. He meant a tax on dogs. He was aware that dogs were almost necessary to some of the poorer sort of people, who earned their livelihood in a peculiar way, but there were many noblemen and men of large fortunes, who kept packs of fox-hounds, and other species of dogs, merely for their diversion, and which might fairly be deemed a luxury. Persons so circumstanced, he could not imagine would grudge paying something to the state for their pleasure. A shilling per annum for every dog kept, he conceived, would neither displease the rich, nor distress the poor. There were, it was true, in this country, as in all others, gradations of rank and fortune; but he could not help thinking it hard, that the lower order of the poor did not live more comfortably than they were known to do in many instances.

Mr. *Powys* concurred in disapproving of the tax on malt, and proposed that some other tax should be substituted in its stead. He exprsesed his reluctance

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to oppose the measures of administration. The expenses which the taxes were intended to defray, had in his opinion been necessarily and properly incurred. All were unanimous in approving the general plan of speedily defraying those expenses. The tax on malt, however, he thought liable to many objections. It was a tax on the private brewers, and as such materially affected the interests of a most useful body of the community, the husbandmen. Its dangerous consequences to the morals of the peasants could not fail to be perceived. Besides, the tax was partial, and did not affect the citizens of London, who drink a beverage, not only highly superior in quality to what was to be had in the country, but almost cent. per cent. cheaper. In defence of this tax, it had been urged that the sum was small, and the term of its duration short. The operation of a tax, however, was frequently much greater than in the proportion of the sum at which it was rated, nor after it had once been established, whatever might be the term of its duration, could its effects be easily counteracted. A less exceptionable tax might easily be found as its substitute.

Alderman *Le Mesurier* said, that the hon. gentleman who spoke last, had stated that the tax on malt would fall principally on the country; but he forgot to take into his account the money paid towards the taxes by the inhabitants in the metropolis. The hon. gentleman had likewise omitted to take into account the situation of the public brewer, who paid twice as much as was laid on the private brewer. Since the public must be taxed, he thought it difficult to find taxes less burthensome than those proposed.

Mr. *W. Drake* said, he could not avoid mentioning the conduct of the present superimperial emperor of Germany, who had with so much wisdom and humanity, laid his taxes on wine and spirits, leaving the brewery untouched, by which means his subjects were enabled to drink that wholesome beverage, which inspired gladness of heart and chearfulness of mind. He sincerely hoped, that while the rich drank wine, the poor might not be deprived of their wholesome beverage. He hoped also, that the House would agree to no tax that would impoverish small beer. He doubted not but the receipt of the other taxes would make up any deficiency that might be occasioned by the giving up the malt tax, which he intreated the chancellor of the exchequer to give up to the poor as a free gift. He approved highly of the convention, and observed, that the poor throughout the country would, unburthened with an additional duty on malt, toast health and wealth to the present minister; but if it should pass, he feared they would introduce their toasts with distorted phrases, and that the general toast among them would be, "the downfall of the minister!" Mr. Drake declared, that when he saw beneath the roof of penury a steady loyalty, and a willingness to obey our laws, he wished he was as rich as Crœsus, in order to be the instrument of cherishing the distressed and comforting the afflicted. He advised the chancellor of the exchequer to abstain from his intended tax on malt, and open a public subscription book for the poor, desiring that he might be put down for two hundred guineas.

Mr. *Rose* said, that when the situation of the public brewer was truly seen, it would be found that the reverse was the fact, the private brewer being, upon a comparison, favoured to the amount of a million sterling. He denied that it would be cheaper for the poor to buy their beer, under the new tax, than to brew it. In answer to the objection, that the malt tax would chiefly fall exclusively on the country, it was to be recollected that the additional duty on spirits, and the 10 per cent. on the assessed taxes would be paid in a far greater proportion by the metropolis than the country.

Mr. *Peel* conceived that the tax would, if it were lowered one half, be made general, and no exception allowed. It was a fact, that public breweries had increased greatly, and that private breweries were on the decline. The public brewer had a resource to answer any additional tax on him; he could raise the price of his beer, and lower its quality. He did not conceive that the riches of a country consisted in the extent of territory, or the multitude of people, but in their superior industry, which so much the better supplied them with the necessaries of life; and to this it was owing, that in Great Britain, eight millions of people were better supported, than twice that number in a neighbouring country.

Mr. *Courtenay* said, that in Norfolk, many private breweries had been given up. The consequence of any additional tax that might be imposed, would be still more to suppress this home-brewed ma-

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nufacturer, and the labourers, instead of receiving a quantity of beer from the farmer, would receive in lieu a sum of money, which would naturally lead them to the alehouse, where by associating with bad company, and contracting bad habits, they would become negligent of their families, and dangerous, instead of being useful to society. This tax of the minister might, he said, be regarded as an intended commemoration of the advantages of the convention, and of his own merits in effecting that transaction. Afraid that they might be forgot, he had instituted this tax in commemoration of them. Every tankard of ale would remind the peasant of the inestimable benefits thus procured to the country, and would fill his mouth with the praises of him to whom it was so essentially indebted; every draught would be accompanied with his health, and his fame would for ever float on the ocean of ale.

Mr. *Vyner* said, that although many acknowledgments were due to the minister for the convention with Spain, he could not but object to the tax on malt.

Mr. *Coke*, of Norfolk, strenuously opposed the tax upon malt. He said he came from a sporting country, where dogs were held in great estimation, and a tax upon these animals would not be considered as any grievance or oppression, and he had no doubt but it would prove a productive one. He had not seen any occasion for the late armament. The present minister had been very lavish in the expenditure of the public money. He never should have his confidence. In providing for the expenses that had been so wantonly incurred, he would not consent to any impressive imposts which were likely to affect the interests of the industrious peasantry.

Sir *Edward Knatchbull* approved of the tax on dogs. He said, he represented a great body of constituents, who would be oppressed by the malt tax, and he therefore wished it not to be persisted in.

Sir *Charles Bunbury* said, that so far from imagining that malt would bear an additional duty, he had entertained a design of moving to repeal some of the existing taxes on malt. Adverting to the present situation of the poor and lower order of the people, he remarked, that rent was high, meat dear, fuel difficult to be obtained, and every necessary of life enhanced considerably in its price. That was the case in Suffolk, where the wife and children of the cottagers, since the commutation tax, scarcely ever tasted meat, but lived chiefly on tea and bread and butter, and the husband went to an alehouse. He would advise the House to turn their eyes from an eastern to a western county, fruitful in soil, fruitful in beer, fruitful in members of parliament, and fruitful in apples. Since the late expenses were said to be for the benefit of all, the common beverage of all should be taxed alike; if the beverage of one set of people was to be taxed, the beverage of all should be so likewise, cyder as well as ale. Formerly, a tax had been imposed on cyder and afterwards repealed, on account of the disgust the people then took to the principles of the excise laws, every Englishman thinking his house his castle; but the same resistance would not, he believed, be made now, because, during the last parliament, some thousands of persons concerned in the manufacture of snuff and tobacco had been put under the excise laws, and had patiently submitted to them. Why, then, might not the manufacture of cyder be excised also? As it was expected that every gentleman who objected to one tax, should suggest another, he begged leave to recommend a stamp duty on weights and measures. Such a duty would prove useful in a double point of view; it would produce an aid to the revenue, and would secure to those who paid the taxes, an honest and full proportion of what they paid for. An hon. baronet had done himself great credit by the pains he had taken on this subject in the last parliament, but unfortunately he had not weight enough to carry the measure.

Mr. *Pitt* said, that with regard to the tax in question, it certainly would be for his interest, if he could carry the measure without incurring any share of unpopularity. But unpleasant as it must at all times be for persons standing in his situation to hazard the risk of popular odium, he should ever consider what his duty demanded, rather than consult what was most likely to contribute to his personal ease or interest. Nothing he had heard that day, weighed sufficiently with him to induce him to alter his opinion on the subject; nor could he bring himself to believe, that so very small an addition to the duties on malt already paid, as rather more than a farthing per gallon on the better sort of beer, and not more than one-third of a farthing per gallon on the

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small beer, could be attended with serious consequences to any description of persons, rich or poor, and the more especially as it was merely to be temporary. Gentlemen had observed, that malt already paid three millions and a half, nearly half the interest of the national debt, and that threfore more ought not to be levied on that article. If such were the principle on which gentlemen reasoned, they deceived themselves in respect to the present tax. At this emergency, 800,000*l.* was proposed to be raised, and he took about 120,000*l.* of that sum from malt, which was by no means in proportion to the amount of the money which malt already yielded. Mr. Pitt took notice of what had fallen from Mr. Peel respecting the reduction of the tax on malt, and taking it generally. An hon. friend of his had shown, that the public brewer paid so much more than the private brewer, that there was no less than a million sterling in favour of the latter. A gentleman had said why not lay a tax on dogs? He would tell the hon. gentleman; because, having fully considered it, he could not see by what means such a tax could be imposed, so as to avoid evasion and make it productive. He had heard of an intention to take dogs as a parochial tax, and appropriate the produce in aid of the poor-rates. Whenever any practical plan of that kind should be offered to the House, he would pay it due attention. Another gentleman had observed, that they must turn their eyes from the east to the west and tax cyder, and that the objection to the excise laws had been of late done away by the tobacco bill. Not having sat in the late parliament, the hon. baronet might have fallen into the error so industriously circulated, and imagined, that some thousands of tobacconists, who were never so before, were then subjected to the excise laws. The fact was, that only a few hundreds, besides those of the trade, who were before under the excise laws, were so subjected.

Mr. *Sheridan* said, that, in his opinion, the right hon. gentleman had not offered one argument of sufficient weight to refute the many strong objections which had been so forcibly urged that day. An hon. gentleman had recommended it to the chancellor of the exchequer to give up the additional tax on malt, lest among the poorer orders of the people "the downfall of the minister" should become a prevalent toast. As the people in the county, the chief town of which he had the honour to represent, would be very materially affected by the tax, he had little doubt, if the right hon. gentleman persisted in adhering to it, that such a toast was likely to be adopted and recorded on the pottery of Mr. Wedgwood. The chancellor of the exchequer had said, that the tax was to be but temporary; but malt was the very worst article that could have been chosen for a temporary tax, since the malt duty had, within the last two or three years, fallen considerably short of its produce. Formerly, it raised 750,000*l.*, whereas, by the different oppressions imposed of late years through the medium of additional duties, the sum produced, had, by degrees, sunk, year after year.—With regard to a tax on dogs, he was persuaded such a tax was not practicable, but there were, he had no doubt, other taxes to be found, which would prove less liable to objection, and at the same time would raise the deficiency which giving up the malt tax would occasion. He hoped the right hon. gentleman would consent to forego the addition to the malt tax, and as he was thoroughly persuaded, that when it was properly considered, it would be seen in the light in which he had placed it, he would move to amend the motion, by leaving out the word "now," and inserting the words, "Monday the 7th of February."

Mr. *Buller* thought the tax not likely to answer the minister's purpose, and objectionable on a variety of accounts. He should therefore oppose it; and if a tax on cyder was proposed, he shonld be equally strenuous in his opposition to that, because he had no idea of laying taxes that bore partially on one description of persons, when the expenses that were to be defrayed, had been incurred with a view to the general benefit of the kingdom. He lived in a western county, and well knew that a tax on cyder could not be imposed, without occasioning infinite distress and confusion.

Mr. *Noel Edwards* said, there was a subject of taxation that had never yet been taken up, which he conceived would raise a considerable sum, and at the same time prove a national benefit, and that was a tax on coffins. At present it was the practice, from motives of vanity, to make an useless parade at the funeral of most people; a fairer object, then, surely could not be selected to raise a revenue

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from the empty pomp of surviving individuals; and another reason which proved it to be a wise measure was, that as most of the coffins of those, whose families could afford it, were made of oak, the tax would check the practice, and more elm coffins would be made than heretofore, which would save a considerable quantity of so valuable a wood as oak, for the more important service of the country.

Mr. *Fox* observed, that the question whether the intended additional tax on malt was likely to prove either a good or a bad tax, was not a question which turned upon opinion, but a question of fact. The right hon. gentleman had defended the tax, by saying that the additional duty to that already imposed, was so small that it could scarcely be felt, and that it would do no injury to the private brewery, whereas, a number of gentlemen, who lived more in the country than he did, had declared, from their own knowledge, that the fact was otherwise, that the additions to the malt tax, which had been laid already, had so nearly turned the balance, that this intended addition was likely to weigh it down, and destroy the private breweries in the families of the hard working poor. He thought the present one of those instances like the shop-tax, when the right hon. gentleman was obstinate with a degree of perseverance, inconsistent with prudence and good sense. The right hon. gentleman it was true, had, when he proposed the shop-tax, said, that if he could be convinced that it would fall on the shopkeeper, and not the consumer, he would give it up. That was fair; but unfortunately it was four years before the right hon. gentleman was convinced, although he had been told from the first, that it would fall upon the shopkeeper; and at last he was obliged to give it up himself, confessing, that the shopkeepers having persisted so long in declaring that the tax fell on them, was a proof that he had been mistaken in his reasoning, and that it ought to be repealed. Mr. Fox declared that he was then ready to give his opinion, but he saw no objection to defer the second reading of the bill till after the holidays, by which time it might be ascertained, whether the probable effect of the tax, was as the right hon. gentleman had stated it, or as it had been stated by those who were so much more likely to be better informed on the subject. At any rate, it was better to abstain for a while from laying a tax, than to have it to repeal after it had been imposed. With regard to the proposed tax on dogs, he had not the smallest idea that such a tax could, by any mode of collection or regulation, be rendered productive.

Mr. *Pelham* believed that gentlemen had made up their minds on the subject, and therefore he was for putting off the second reading till that day six months. The last tax on malt had such an effect, that most of the private breweries were suppressed by it. In the county which he represented, the fact was the same as an hon. baronet had represented it to be in an eastern county: private breweries had been stopped in Sussex as well as in Suffolk, and the people forced to substitute spirits instead of beer, which not only was most pernicious to the health, but offered the greatest encouragement to smuggling in general. In Sussex, and he believed it would be found to be the case in most maritime counties, there were people who went about selling spirits in private houses, at a lower price than it was possible for them to brew beer. This was a great hurt to the husbandman and farmer, and it was solely owing to the heavy taxes on malt.

After some further conversation, the House divided on the question, That the word "now" stand part of the question: Yeas, 126; Noes, 91. The bill was then read a second time.

Debate in the Commons on the War in India.] Dec. 21. Mr. *Hippisley* rose to make the motion of which he had given notice. He said, his object was then only to put a few questions to a right hon. gentleman, which might have tended to satisfy his doubts with respect to the origin of the war. With respect to the present motion, the House had echoed back his majesty's speech in its whole extent, subject to future discussion. A part of it had been discussed, and he sincerely wished the former motion for papers had been comprehensive enough to embrace the present inquiry. As the lot to move it had fallen to himself, he should submit what he had to offer under the correction of the right hon. gentleman opposite to him, whose situation gave him great advantages of information, as well as of other gentlemen whose local knowledge and residence in India made them very competent to form a correct judgment. Mr. Hippisley requested, that

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that part of his majesty's speech which related to India, might be read, viz. "You will have observed, with concern, the interruption which has taken place in the tranquillity of our Indian possessions, in consequence of the unprovoked attack on an ally of the British nation. The respectable state, however, of the forces under the direction of the government there, and the confidence in the British name, which the system prescribed by parliament has established among the native powers in India, afford the most favourable prospect of bringing the contest to a speedy and successful conclusion." He then begged to state the fact to which he presumed this part of his majesty's speech applied. "The rajah of Travancore negociates the purchase of the fort of Cranganore, and Accottah of the Dutch. Tippoo Sultan objects to the purchase. The rajah persists, and Tippoo endeavours to repel it by open hostility." This was, *primâ facie*, the state of the case; but some circumstances connected with the transaction must also be stated, to give it its proper colour. About two years since, the rajah applied for two of our battalions to be stationed in his country, which was granted. About this time, probably, he first meditated the acquisition of the forts. The officer who commanded this detachment wrote to sir Archibald Campbell, then governor of Madras, stating the advantages which the acquisition of Cranganore and Accottah would be of to the rajah. Sir A. C. immediately expressed his direct disapprobation of the measure, anticipating, probably, the mischief incidental to such a transaction. No more was heard of Cranganore during sir A. C.'s government. But soon after sir A. C. had left India, the rajah himself wrote to his successor, Mr. Holland, that he had completed the purchase of Cranganore, and agreeably to the approbation of the former government. Tippoo Sultan, in consequence of this purchase, marched towards the Travancore lines, threatening an attack if the rajah would not relinquish the possession of the forts in question; the rajah refused, and Tippoo commenced hostilities. After the attack of the lines, Tippoo wrote an apology for his conduct to our government, declaring his wish to continue in friendship with the English, and to avoid any cause of offence towards them. It is even reported, that he offered to leave the subject to arbitration. On the representation of these facts to the supreme government, their opinion is stated to have been, "That as the attack had been made by Tippoo in person, and as he knew we were bound by treaty to support the rajah of Travancore, should our government accept his apology, it would amount to a declaration of our weaknes to all the powers of Hindostan."

From this statement, which had been very credibly vouched to him, Mr. Hippesley conceived that it was probable Tippoo Sultan might be less blameable than we were aware of, if not strictly justifiable; and, consequently that our hostile interference might not be so well adapted to conciliate and illustrate the system laid down for the better government of India. He hoped he should not be considered as undertaking the general defence of Tippoo Sultan; he considered himself rather as an advocate for the honour and justice of the british nation. He admitted the claim of Tippoo to the epithet of a merciless tyrant: the tyrant, nevertheless, had his rights, and consequently his wrongs, in common with other men. It would be necessary to examine the local situation of that part of the coast of Malabar which involved the present contention. He could have wished for the advantage of a correct atlas on the table, which he thought at any rate would be a valuable acquisition to the House, as the reference to such a code, in consequence of the late convention, would probably be more frequent than to our statute books. Cranganore was seated north of the territory of Travancore, and of Cochin. Cochin had indisputably been tributary to Hyder Ally, and he believed it was to Tippoo Sultan. Cranganore probably might be in the same predicament; the presumption certainly was in favour of such a supposition, as most of the little rajahships on that part of the coast were, at some time or other, tributary to this power. Cranganore was certainly in the possession of the Dutch; still it might owe fealty to Tippoo. In attempting the purchase of this fortress, what motive, short of ambition, could have influenced the rajah of Travancore? At any rate, Tippoo could not view such a transaction with indifference. In the hands of a neutral trading company (the Dutch) it was of little import; but in the possession of an active ally of the British government, Cranganore assumed a very different appearance. Let it be supposed, for a mo-

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ment, that we had transferred Anjengo, which we possess in the Travancore country, to Tippoo Sultan. Would not the rajah of Travancore have cause of complaint, and even of resistance? Let us take a case nearer home. We had, within a few days, heard much of the nice point of honour, of the gallantry, of the chivalry of the Spaniard! Suppose we were to transfer the possession of Gibraltar to the Moor or Algerine, what would probably be the feelings of the Spaniard on such a transfer? Those parallels, Mr. H. observed, were not exaggerated, and would serve as clues to Tippoo's sentiments and conduct on the present occasion. Travancore was stated as the ally of the British nation, and must at all events be protected. She was included in out last treaty with Tippoo Sultan, where the contracting parties have bound themselves not to "assist the enemies, nor make war on the friends of each other." She was also virtually included in the treaty of 1769, with other powers, on the same terms, "provided they do not become the aggressors; if they do, they are not to be assisted by either party." As far as her territories and her interests were concerned *in statu quo*, in 1784, the date of our treaty, certainly on these conditions she was to be protected. But surely it would be a most mischievous principle to set up—that we are bound to protect her in every ambitious scheme for the extention of her dominions, whether by purchase or otherwise!

Such, Mr. Hippisley observed, were his doubts, as to the justice of engaging in a war with Tippoo Sultan, in defence of the new acquisition of Travancore. His doubts were not less of the policy than of the justice of the war. We were to rely much on the Mahrattas, it was said, and on the Nizam. Could we so soon forget the first feature of the Mahratta character? Mahratta faith was as proverbial in India, as the *Punica fides* in the days of ancient Rome. Had we forgotten our dependance on the Mahrattas in 1767, when they marched to attack the frontier of Hyder, and co-operate with us and with the Nizam, with a view to extirpate the tyrant of Mysore? What was the consequence? They reached Hyder's frontier, from whence he sent them back, with a few concessions, in peace to their own country. And how did the Nizam conduct himself? He concluded a treaty of perpetual friendship with us, offensive and defensive. He joined our army under general J. Smith, and marched with us against Hyder Ally. When he came in view of our enemy, he deserted us, and joined the standard of Hyder: he continued for some time actively fighting against us, and Hyder, in the sequel, dictated a disgraceful peace at the gates of our capital. Could we forget, too, the general confederacy of 1780, among the native powers, at the head of which the Nizam was, and the object of which was to root out the British nation from India? The moment was said to be favourable, from the increased force of our army, and the inability of France to annoy us. He granted, our army never was on so respectable a footing; the merit of which was so strictly referrible to the zeal and exertions of sir A. Campbell. Could we suppose that Tippoo had not kept pace with our improvement: that his army had not been increased and disciplined, *pari passu?* He had a force of 150,000 men, a large corps of Europeans, well officered, an admirable artillery superiorly served. Add to this, the very sinews of war, a revenue of five millions sterling, and a treasury of eight or nine millions. To these resources we were to oppose an exhausted treasury, and a tottering credit. The small discount on the company's paper had been mentioned as a proof of restored credit, but there was reason to believe that this was owing to decline of trade, which scarcely left to monied men a more profitable use for their money.—As to France, as a rival kingdom, he believed we had little to fear at present; but it should be remembered that, no later than 1787, a number of enterprising individuals of that nation had by their intrigues gone near to light up India in a flame. They probably still existed, at the Durbars of the Mahrattas, of the Nizam, and of Tippoo; they were deep in the confidence of those powers: but the good sense and discretion of the French governor, who arrived in 1787 at Pondicherry, checked those intrigues, and prevented a war.

He said he would not trespass farther on the patience of the House. He trusted that their candour would give credit to his motives. He agreed with his hon. friend (Mr. Grey), that "any peace, where the honour of the country was not bartered away, was better than the most successful war." At any rate, it was the duty of parliament to look with a most jealous eye to the infraction of the system

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which had been laid down in its wisdom for the better government of India. He deprecated a war in India especially, and entered into a detail of the difficulties and miseries that would attend it in that distant part of the world, which indeed were so obvious, that he trusted no motives of false ambition, nor prospects of conquests in addition to our territory, could be reckoned an excuse for entering into it. He concluded with moving, "That there be laid before this House, copies or extracts of all the correspondence between the rajah of Travancore and the government of Madras or Bengal, on the subject of the said rajah having purchased the fort of Cranganore; and in consequence of the subsequent attack of Tippoo Sultan, on the lines or territories of Travancore. Also copies or extracts of all correspondence between Tippoo Sultan and the said governments, on the said subjects: together with copies or extracts of all information communicated by sir Archibald Campbell to the court of directors, relative to the said subjects."

Mr. *Francis* said, that little doubt could be entertained with regard to the propriety of laying before the House information of the measures now taking in India, especially since they were already known in that country; nor even if they were kept secret there, could their communication here be attended with any inconvenience. In the present situation of India, some information was most certainly wanted of what was either done or intended: and, on the present occasion, they were led to inquire what was the system which this country ought to pursue in the management of her dominions in that quarter. In the first place, the general principle, that peace is preferable to war, more particularly held good in this instance. The preservation of peace was indeed the essential and fundamental principle of our government in India. Secondly, the security of our possessions in Bengal was to be attended to, preferably to that of our other dominions. And thirdly, satisfied with what we possess, we ought not to aim at any extension of territory, since every such attempt must infallibly prove hurtful in its consequences. This maxim was confirmed by the experience of all governments. The policy of adventurers and possessors was very different. The first aim to acquire territory and extend their footing; the latter ought to endeavour to retain, upon a firm and permanent establishment, what they have already acquired. Hence arose the difference between our present and our former policy in India. Formerly, we were adventurers in quest of an establishment; we were now possessors of an extensive territory. Such being the general outline of the policy which we ought to pursue, there were two objects of attention necessary. First, the state of our army and finances; and secondly, the regulation of our alliances abroad. There was one circumstance, which he was going to mention, that might appear singular, but which was, nevertheless, most indubitably true. The circumstance to which he alluded was, that it was the policy of this country to avoid all alliances with the native powers of India. Such alliances were, in every instance, dangerous, and tended only to lead this country into troublesome and expensive connexions. The policy of this country, with regard to the native states was, to preserve between them the balance of power. The powers of India he divided into three; first of all, the English; secondly the Mahometan or the remnant of the Mogul empire; and thirdly, the Hindoo government. Between the Nizam and Tippoo there subsisted a mutual jealousy, which it was the interest of this country to encourage, in order to keep them opposed to one another. It was true that the Nizam had not observed one engagement which he had come under, and that Tippoo was a merciless and inhuman tyrant; yet, by means of this jealousy, they might be prevented from employing their power to the prejudice of our settlements. The Hindoo government included the Mahrattas, whom, of all others, we had most reason to dread. And, on this account, it would be impolitic to extirpate Tippoo, even if we had it in our power, which he very much doubted, as he served to maintain the balance against this last power, and as his extirpation would give them an extent of territory, and a degree of influence which would be highly dangerous to the safety and interests of our dominions in that country. But the attempt, exclusive of its impolicy, was impracticable. The hon. mover had already stated his power of defence, but his power of attack was still greater. In engagements between the native powers and our countrymen, the former had evidently the advantage. They could sustain no great or permanent injury; to them a defeat was only a dis-

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persion. We heard often of defeats, but we did not not hear of any great slaughter or capture of prisoners which had in consequence taken place. They rallied again, but little dispirited or diminished in number from their defeat. This was the case in the action between sir Eyre Coote, and Hyder Ally, whereas the success of the native powers in those instances in which they had gained the field, was always decisive and complete. These circumstances rendered information, in the present situation of India, necessary, in order that they might be enabled to judge of the measures which were taken in that country. With regard to the character of Tippoo, it was by no means unusual to exaggerate accounts of characters; and even if his character accorded with the descriptions given, it remained for them to consider whether they would expose their subjects and allies in that country, who might fall into his power, to the consequences of that tyranny and cruelty. He was not sufficiently acquainted with the nature of the information for which his hon. friend had moved, to enlarge upon it; but he had stated the general principles which he had always been taught to believe would apply to almost every occasion that could arise in the government of India. In conclusion Mr. Francis seconded the motion.

Mr. *Dundas* agreed with the hon. gentleman who spoke last in most of the principles he had stated; but on the application of those principles, he should perhaps be inclined to differ, or rather, when the business came to be fairly discussed, he should hope that the hon. gentleman would see full and sufficient reason to concur with him. It was true as the hon. mover had stated, that the present dispute between Tippoo Sultan and the rajah of Travancore, originated in the claim of the former to the sovereignty of the forts of Cranganore, Aicotta, and Cochin. The claim of Tippoo was founded on a sort of ancient feudal right to the whole territory in which those forts were situated, and on the acquisition of Cranganore by the rajah of Travancore, he asserted that in virtue of such right, the cession could not be made without his consent. The rajah of Travancore was our ally, and if he had justice on his side, we were bound to support him, when attacked, and admitting that he had been in the wrong, it was equally obvious that we were obliged, in policy, to interfere and prevent the contending parties from deciding their respective claims by force of arms, and lighting up a war in India. Cranganore, Aicotta, and Cochin, were places of considerable strength in the hands of the Dutch. They were alarmed by the warlike preparations of Tippoo pointing towards the quarter in which these possessions were situated, and apprehended that they might be driven out of them successively by a power which they had not force sufficient of their own to resist. Understanding that the rajah of Travancore was an ally of ours, whom we would certainly protect, they were desirous of putting Cranganore, and the other fort, into his hands; that being thus under the protection of the British government, they might form a barrier to Cochin, their most valuable possession on the continent of India. The bargain was accordingly made; the claim of Tippoo Sultan to the feudal sovereignty of those forts was recent, and founded on the province to which they belonged having been overrun and conquered by the Mysorean power about twenty years before. The Dutch contended that they had held it, by right of conquest, from the Portuguese for more than a century. Such was the state of the respective claims to the forts in question, to which, when he considered that both were founded on the right of conquest, the recent date of the one, and the antiquity of the other, he was confident that Tippoo Sultan could have no just right. But he did not desire the measures adopted in India to be judged on this ground only. There were other proofs of a nature still more unequivocal that Tippoo had engaged in the dispute, not from any notion of right, but from motives of ambition, and an idea that in any future war with the rajah of Travancore, the possession of the forts by the latter would be a great disadvantage to himself. In 1788, he had advanced with a formidable army to the frontiers of Travancore, without any provocation, or pretence of provocation. The rajah was alarmed, and applied to the governor and council at Madras. Sir Archibald Campbell, with a promptitude and vigour which the supreme council of Bengal fully approved, immediately dispatched a message to Tippoo, to inform him, that he would consider any act of hostility aganist the subjects or territories of Travancore, as a declaration of war against the British government. The intimation

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had its proper effect, and Tippoo instantly withdrew. So matters rested till the change of government at Madras, in consequence of the return of sir A. Campbell. On the consequences of that change he would not at present say one word. What he had stated was sufficient to prove the restless and hostile disposition of Tippoo Sultan, before the cession of the forts came into question. Tippoo he must consider as a restless and ambitious tyrant, continually meditating schemes of conquest against the neighbouring powers, and particularly hostile to the British name and government. With this idea of his character, he must look to the geography of India, and the local situation of Travancore. It extended along, and covered nearly one half of the coast of Malabar; and were it to fall into the hands of an enemy the whole of our territories would be laid open. It was, therefore, highly necessary to watch the motions of Tippoo Sultan in that quarter with a most jealous eye. Yet, notwithstanding this jealousy, no indication of hostility on our part had appeared since the treaty of Mangalore. He, on the contrary, had hardly ever been quiet; and had he made no other attempt, his conduct at Tillicherry would have been a sufficient proof of his intentions. At the very time that he advanced with a formidable force against Travancore, he surrounded Tillichery, and seized a boat loaded with provisions. When complaint was made, and restitution demanded he not only returned the letter unopened, but told the messenger, that if any other was sent, the bearer should leave his head with it. It had been said, that he offered to refer the dispute about the forts to commissioners. He had very strong reason for believing that this report was not well founded. Of this, however, he was convinced, that the moment Tippoo drew the sword, the moment he attempted to assert any claim by force of arms, it was no longer time to talk of unarmed negociation, but necessary to repel and punish him. The best and wisest measures of war were indeed doubtful; but when war became necessary, he might be permitted to mention our fair hopes of success. We had as fine an army in that quarter, and as well appointed, as had ever appeared in India, for forming which great praise was due to sir A. Campbell; and instead of having a war to support against the French, against the Dutch, against the Mahrattas, against Mysore, against all the European and all the native powers of India, we had only to contend with one of them. These circumstances afforded at least as favourable a prospect as that in which there must always be some degree of uncertainty could admit. Of the papers moved for, none appeared at present improper to be produced.

Mr. *Fox* said, that when they had the papers before them, they would be better able to decide on the true grounds of the provocation upon which they were ready, it seemed, to enter into war. He suspected that the right hon. gentleman did not wish for a war in India more than he did; but, from what he had said, a conclusion might be drawn, that without provoking war, without being desirous of conquest, or restless and dissatisfied, we were to be made the dupes of the Dutch on this occasion, and were likely to be led into a war unnecessarily, at least, if not unjustly. The right hon. gentleman had said that the rajah of Travancore's purchase of the fort of Cranganore, was a subject of jealousy to Tippoo Sultan; ought it not, then, to have been the wisdom of government to prevent our ally from making a purchase likely to stir up the jealousy of our watchful and suspicious neighbour? If the purchase was made without consulting our government, it was highly blameable, as it was degrading and injurious to the English name. By such measure, we might be incessantly involved with the neighbouring powers, and obvious policy demanded that we should not suffer an ally to do acts likely to inflame the powers with whom we were at peace. The right hon. gentleman acknowledged that Tippoo manifested an indisposition to the transfer of those forts, when first proposed in 1788, and that sir A. Campbell prudently preventing the transfer, he was perfectly satisfied, and remained so till 1790, when the transfer was made, apparently without consulting him or us. It was fair to conclude, that however advantageous it might have been for the Dutch to sell those forts to the rajah of Travancore, by which they established a barrier between Tippoo and themselves, it was for us seriously to inquire whether, at the hazard of involving us in a war, it was wise to support our ally in such a purchase? The right hon. gentleman had said, that Tippoo was the person of all others who ought to excite the jealousy of the English government, and that his attack on our ally

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was a subject of great alarm, and of just provocation. It might be so; but let us place ourselves also in Tippoo's situation. Must not the rajah's purchase of these forts be equally a subject of jealousy to Tippoo; and was it not clearly our interest and policy to avoid giving offence, as much as we would disdain to submit to it when given? A war in India was as much to be deprecated, nay, perhaps more so, than a war in Europe; war was not only to be deprecated, but conquest itself was undesirable. If it were in our power, by any means, to add to our possessions in India, he would deplore the addition as a serious calamity. A war for conquest, he hoped, never would be undertaken by England either in India or elsewhere. But he was equally ready to say, that it was not for the interest of this country to suffer Tippoo to gain possession of Travancore at any rate. Saying this, he would, however, take up the converse of the argument, and assert, that the extirpation of that prince would not be a political measure for England to undertake. His vices, his inhumanity, made him detestable; but with the Mysorean country we ought to be friendly; inasmuch as it was the strong barrier between the most powerful of the Indian states and our settlements. When the papers were laid upon the table, they should be able to ascertain with what justice they could enter this war, and whether it would not be infinitely more becoming their dignity, as well as more consistent with true wisdom, to negociate a peace between them as a mediator.

Mr. *Pitt* observed, that what Mr. Dundas had said, would put the House into possession of so much of the true question, as to enable them to see the necessity of the proceeding pointed out by his majesty in his speech from the throne. Our ally had purchased from the Dutch the fort of Cranganore, of which they were indisputably the owners, and for this purchase, he had been attacked by Tippoo. He was perfectly willing to agree that wars for conquest were to be deprecated; but he could not allow, that in case we should be involved in a war to which we were provoked by the injustice of our neighbours, we were not to covet any new acquisition of territory, by which we might recompense ourselves for the expenses of the war, and by which we might make the enemy feel the consequences of their own injustice.

Mr. *David Scott* described Tippoo Sultan as a perfidious prince, whose frequent violations of solemn treaties had sufficiently justified this country in hostilities against him, independent of the dispute with our ally, the rajah of Travancore. When general Matthews, and the army under his command, during the late war in India, found their situation so desperate, that they had no alternative but to conclude a treaty with the tyrant of Mysore, by which it was stipulated, that they should return to their own country with the honours of war, instead of conforming to the articles of the treaty, Tippoo gave directions to surround the British troops, and make them all prisoners. He treated with every species of indignity and barbarity the general, the officers, and the soldiers. They were stripped of their all, put in dark and loathsome dungeons, loaded with heavy irons, and unprovided with any allowance of common necessaries. Numbers perished of hunger and suffocation, but many more of the unheard-of tortures which were inflicted upon them. This sad and melancholy catastrophe, this barbarity and cruelty to English subjects, this wanton and unprovoked violation of treaty, was, of itself, a cause for war against Tippoo Sultan. A similar violation of the treaty of Tillicherry, and the barbarities which attended it to British subjects, when so many suffered by imprisonment, forcible circumcision, and other tortures, was another just cause for hostility against Tippoo, and yet unrevenged. We were, he said, bound in honour, by the sacred obligations of a solemn treaty, to stand by the rajah of Travancore in the present dispute with the traitorous usurper of Mysore.

Colonel *Macleod* said, that he had formerly mentioned Tippoo Sultan as a man of abilities, but never as endowed with the virtues of justice or humanity. Independent of his being a merciless tyrant, he was a restless Mahomedan fanatic; his bigoted aim being to exterminate Christians wherever they were found, particularly the English in Hindostan. He gloried in the destruction of Christians. A war against such a tyrant ought to be carried to the greatest extremities; until he should be for ever incapacitated from giving any farther disturbance to the general tranquillity of India. The late armament against Spain had occasioned an expense of three millions to

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this country; now, if Spain could, at pleasure, cause a similar expense, would any one doubt that we ought not to insist upon an indemnification in one shape or another? This was precisely the case with Tippoo. We were never safe from his incursions. Ought we not, therefore, to reduce his power, as the only means of providing for the tranquillity of our government in India? He then described the feudal government of the rajah of Travancore, in order to show that Tippoo Sultan had no pretension to the forts which were the ostensible cause of the present war. It would prove the best policy we could adopt to exterminate such a pest as the tyrant of Mysore, and by such an extermination, we should be for ever entitled to the thanks of millions of mankind.

The question was then put and carried.

Somerset House.] Dec. 22. Mr. *Burke* observed, that wheresoever the promotion and encouragement of the arts and sciences were in question, he earnestly wished that the accommodations for the public might be ornamental and advantageous; and therefore he had always cheerfully voted the several grants towards the erection of that noble building in the Strand, called Somerset House. It had cost the public a great deal of money; and it was highly necessary that care should be taken to see that it answered the purpose for which it was designed. He had lately been present at a meeting at that seminary of the arts, the Royal Academy, the object of which had been to distribute the prizes to those young artists whose merit entitled them to such marks of distinction. There were in the room seventy-one artists, and the president, who had been the chief instrument in bringing the arts to their present eminent degree of perfection. While the president was in the act of giving the first medal to the artist to whom it was assigned, a sudden and alarming crack was heard; soon after which, a second was heard also; upon examination, they proved to have been occasioned by the two main beams of the floor having given way. The king, the queen, the prince, with others of the royal family, the bishops, the judges, and very many of their worthy constituents, Mr. Burke said, went every year to honour the arts, and to honour themselves in countenancing the arts. From what he had remarked, it was obvious that they were exposed to the danger of their lives in such visits, and he entreated the right hon. gentleman to set on foot an examination, and to appoint builders to survey and examine the whole of the works of that place, and to control its completion, since it was not like an ordinary dwelling built with a view to only about sixty years duration, but had been constructed for a public purpose, to last for a time, and to be a permanent receptacle of the arts and sciences, of philosophy and wisdom, through the gate of which they passed to the public offices of the government of the country.

Mr. *Pitt* said, that the information of the right hon. gentleman demanded the most serious attention, and that an inquiry should be instituted.

Debate in the Commons on the Malt Tax Bill.] On the report of this bill being brought up,

Mr. *Powys* contended, that the tax was impolitic, mischievous, and notoriously partial; it bore upon one description of people more than another, and therefore was such as, on every principle of justice, ought not to pass. It had been urged, that some of the other taxes, that on spirits in particular, would operate chiefly on the metropolis, and that some of the assessed taxes would do the same. The spirit duty might, he would acknowledge, do so more, in some degree; but he defied the gentlemen to point out which of the assessed taxes would bear upon the poor of the metropolis more than on those of the country. He would therefore move, That the report be received that day six months.

Lord *Sheffield* said, that however unpromising it might be to make observations on taxes proposed by a chancellor of the exchequer, yet, as no duty was so particularly required of a representative as watchfulness in respect to taxes, he rose to second the motion that had been just made. He did not mean to dwell on arguments that had been already used; they were obvious and strong. He observed, however, that of all the taxes which had been proposed, the additional one on malt was most objectionable. It was not necessary again to remark the disproportionate sum raised on one species of corn, and the mischief done to agriculture, by discouraging the use of malt among the lower ranks of the people.

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He said, no objection struck him so forcibly, as the manifest tendency of these heavy duties to turn the people from the wholesome produce of the country to unwholesome foreign spirits, to which, in truth, they were well disposed, as was fully proved by the astonishingly increased import of foreign spirits, and the decrease of the malt duties; and he saw this evil in so strong a light, that notwithstanding his wish to increase the revenue, if he had any influence, it should be exerted to lower the duties on malt and beer, rather than increase them. It was now almost become a custom for those who objected to a tax, to propose another in its place. If he might do so, it should be with a view to point out the partiality of the duty proposed, and that less oppressive and better taxes might be selected; it should be a fair and just tax; an equalizing tax: possibly, it might not be perfectly well relished in the cities of London and Westminster; he meant a halfpenny per quart on porter. At present, those who earn the most by their labour, pay only three-pence halfpenny for their drink, while those who do not earn half as much, in the country, pay fourpence or fivepence, and even sixpence for good beer. He was confident, the additional tax he proposed would not diminish the consumption. No argument occurred to account for the slackness of ministers, in respect to this tax. There seemed to be an aweful respect for a description of people, coal-heavers, dray-men, and such like; but however respectable they might be, they were not more so than the whole of the landed interest, and all the inhabitants of the country, who only desired to be on the same footing with these respected men. The same good spirit which induced the minister to raise the expenses of the late armament in a short time, might give us reasonable hopes that he would do this act of justice. Nobody applauded more than he did the new measure of not borrowing money to pay the expenses of the late armament: it would do more for public credit than all the chancellor of the exchequer had hitherto done. He then said, another tax might be mentioned, to which there could be little objection; he meant twopence per gallon on foreign spirits, which would raise the duty to six shillings: it would give some advantage to British spirits and rum, and could not materially encourage smuggling. The chancellor of the exchequer had very properly tried the experiment, whether a great reduction of the duty on brandy would not prevent smuggling, and he went as low as he could, without endangering the duties on beer and malt, and without encouraging a preference of spirituous liquors. The experiment had, in part, failed; great quantities were smuggled, and sold, even of a tolerable quality, in the maritime counties, as low as 5*s.* per gallon; and he was of opinion, that if the minister had reduced the duty as low as 2*s.* 6*d.* a considerable quantity would still be smuggled: therefore, he thought we had better get as much as we could from foreign spirits. He should mention another tax, although two of the most considerable and able men of the country (Messrs. Fox and Pitt) had so lately pronounced that it could not be raised; but as they had not offered any argument on the occasion, they would allow him not to be convinced; he meant a tax on dogs. He did not see why it might not be raised as well as the taxes on horses and servants. There would probably be much evasion; but yet a considerable sum might be raised. There were probably four millions of dogs in the island. If it should be said, that through evasion, and the decrease of numbers in consequence of the tax, not more than one million would pay, 2*s.* 6*d.* on that number amounted to 125,000*l.*, which was somewhat more than was expected from the new malt duty. He was so well satisfied it would produce more than that sum, that if he were fond of farming taxes, he would take it at that sum. It would be still more certain, if the minister would allow a part of such a tax to go in aid of the parish; care would be then taken that dogs were assessed; and that part would not be an additional tax, because it would go in diminution of parish taxes. A dog was certainly a fair object of taxation; it was not necessary to a poor man; it was a better tax for him than excises on salt, soap, or malt: fewer of them would be brought up, and so much the better; because much provision would be saved for other purposes. Perhaps it would be called a cruel tax, because many of the poor animals would be put to death. It was the best objection; but surely it would be better for them not to exist, than exist in the miserable way the greater part of them do. He concluded by saying, it was extremely whimsical to see a minister refuse a tax

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pressed on him by the country, which must produce something considerable, and which could not interfere with other taxes, or bring any odium upon him.

The question was put, that this report be now brought up. An amendment was proposed, by inserting "this day six months," when the House divided on the question, "That the word "now" stand part of the question:" Yeas, 122; Noes, 92. The bill was accordingly reported.

Debate in the Lords on the Malt Tax Bill.] Dec. 27. The order of the day being read for the second reading of the bill for laying additional duties on Malt,

The Earl of *Kinnoul* said, that however unwilling he was to give any opposition, or occasion any delay to so difficult a part of the office of administration, as that of imposing additional burthens on the people, yet the tax proposed on malt was of such a nature as he should wish decidedly to oppose, and which, if he could not succeed in this, he should move to be put off for some time. It was a tax impolitic, oppressive, and unjust. Malt was already taxed so high, that it could not bear any additional burthen. Any new tax must be hurtful to the revenue, for though it might increase the sum paid for any given quantity of malt, yet by diminishing the consumption, it could not but affect the whole produce of the duties on that article, which were already so high, that he had it in agitation to move for a repeal of part of the duties already imposed. Their lordships were not perhaps apprized of the rate at which barley, in its various forms, was already taxed. If they were not, the enumeration would astonish them. As malt only, it was taxed at the rate of 10*s.* 6*d.* per quarter. The additional duty of three pence per bushel would raise it to 12*s.* 6*d.* per quarter. When to this were added the land tax and the duties on beer, it would be found that the raw commodity, which brought the proprietor of the soil on which it was raised about 9*s.*, paid to government, in its several stages, above 2*l.* 10*s.* The first principle of finance was, that no article should be taxed too high, that there should be no exorbitant duties, the effect of which always was to oppress the subject and diminish the revenue. If the calculations he had stated were well founded, the present tax was an addition to duties already overcharged.—It was partial and unjust, as it fell chiefly, if not solely, upon the laborious peasant and industrious mechanic, a class of the community which more than any other was entitled to the attention and protection of the House: for though the opulent paid for that quantity which they consumed, to them the tax was by no means an object. Its ill consequences were likely to be confined to the smaller manufacturers and husbandmen, the most useful and meritorious body of the people. With them it would operate in suppressing private breweries, a species of domestic industry which deserved to be protected and encouraged; and in driving them from their own houses and families to the ale-house, where they might contract habits of dissipation, ruinous to their health, their morals, and public utility. Against these objections was urged the small sum at which the tax was rated. This was, however, to be estimated according to the abilities of those upon whom it fell. Small as the sum might appear to those in more opulent circumstances, yet, to the poor, the repeated payment of such a sum became a matter of serious consideration and grievance. Their lordships were aware, that upon every new imposition, the tradsemen took occasion to raise the price of their commodity three or four times the value of the tax: so that every new tax gave rise to extortions much more exorbitant than the sum which it was intended to exact. It had been likewise said, that it was meant only to be temporary. On this head, however, he was not inclined to give much credit to the assurances of ministers, nor did he suppose that they would be willing to drop it, if they should find, as they now certainly expected, that it was a productive tax. Besides, if it should have the bad consequences which he had enumerated, before it should have accomplished its purposes, the mischief would be already done, and it would then be too late to counteract it. He concluded with moving, "That the second reading of the bill be put off till the 1st of February, 1791."

The Duke of *Montrose* observed, that the impossibility of imposing taxes which would not fall heavy upon some class of men was well known to every one. But if there was any grievance in the present tax, it fell upon the rich and not on the poor, as there was a much greater proportion laid on strong than small beer. The sum, however, in both cases, was so small, that he apprehended it could not

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be productive of any bad consequences. If it should produce any such, the temporary nature of the tax gave at least a security against their continuance. If the tax was to take place, it would, however, be proper that it should be passed at once, as any delay in the forms would give those who were interested an opportunity of providing such a stock of malt, as, for the present year at least, would deprive government of a great part of the advantage to be derived from the tax.

Viscount *Stormont* was not surprised that the present tax should be so much pressed, at a moment when that veil of delusion, which had been so long and carefully held up by ministry, was to be torn away from the eyes of the people. We were now within a few weeks of the boasted millennium of 1791, the period when it had been promised that the public receipt should exceed the public expenditure in a sum of 800,000*l.* annually, to be applied to the reduction of the national debt: whereas it was evident, from the experience of past years, that the expenditure had exceeded the receipt, and that instead of reducing any part of our present burthens, we should be under the necessity of contracting additional debts, or imposing additional taxes. He was sensible of the necessity of paying expenses which had been once incurred; and whatever he might think of the occasion from which they had proceeded, he could not but approve of the plan of the minister, which proposed to defray them as early as possible. But of an additional duty on malt he could by no means approve. The article was already so heavily taxed, that it could not admit of any additional burthen. Barley in its different stages contributed the greatest part of the revenue, and, altogether, afforded no less a sum than 3,800,000*l.* It was highly impolitic to attempt to drain this source of national wealth by additional exactions. Such additions might be fatal to the revenue, by exhausting its resources: because a branch of revenue was already highly productive, it ought not to be saddled with additional impositions. It might be loaded with burthens above what it could bear. A new tax did not always produce an accession of revenue: while it increased the sum paid for a particular quantity, it might diminish the general consumption. This was the case in the present instance. The revenue arising from malt, taking the average of the three or four last years, would be found to be on the decline. The small sum, indeed, at which the tax was rated, might be urged as an argument against its producing any effect of this kind. But the sum was by no means so small, considering that part of the community on whom it fell; and the many additions which had already been made to the duties on malt ought to prevent any farther increase. As a consequence of the diminished consumption of malt, the importation of foreign spirits had greatly increased. For the year 1789, the importation of brandy had been 1,800,000 gallons, about 500,000 gallons more than had been imported the year preceding, and smuggling was by no means extinguished. This could not be attributed to the operation of the commercial treaty, or the diminished duties, as all these advantages had been enjoyed in 1788 without producing the same effect. The consumption of British spirits had increased in a still greater proportion. The quantity for 1788 appeared to have been 222,000 gallons, and for 1789, 418,000; nearly double the preceding year. —Notwithstanding what had been alleged, it was a tax which fell not upon the rich, but upon the poor; it was in its tendency partial and unjust, it was directed against a class of the community whom they were more especially bound to protect, as they had now no other protectors; it fell upon the industrious poor and the smaller farmers, who were accustomed to provide themselves at home with a simple and wholesome beverage. Every thing which tended to interrupt or disturb the uniform simplicity of their lives, must be considered as hurtful. In consequence of this tax, they would be sent to the ale-house in quest of the refreshment which labour made necessary; they would be separated from their families, exposed to the influence of bad company, and tempted to indulge in the use of spirituous liquors to excess. The effects to their industry and morals must be pernicious. There were people in the country, who were placed at such a distance from a brewery, that unless they supplied themselves, they had only this fatal resource left. To drive this most useful body of the people to such a resource, would be attended with mischiefs, which no accession to the revenue, far less such an inconsiderable one as was to be derived from the present tax, could compensate. It was said, that the duration of the

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tax was to be short, and he would not argue with his noble friend, who preceded him, that the minister, if he found it productive, would be unwilling to repeal it. But were the effect of it to be such as there was every reason to apprehend, would the cessation of the tax cure the mischief it had done? Would the man who had been driven from the comforts of domestic life, and habituated to the riot and dissipation of a common ale-house, forget the vicious habits he had acquired, and return to the calm and temperate enjoyments of his family? Would the man whose taste had been vitiated by the use of spirituous liquors be capable of relishing the plain and homely beverage with which he had been formerly contented? Such sudden transitions were not to be expected from men who had little to direct them but the impulse of their habits, when experience convinced us that the best education, and the most cultivated understanding, was not always equal to the exertion.—It had been said, that a personal tax was preferable to a tax on consumption, a position which, from what little knowledge he had of finance, he was by no means ready to admit as generally true. But when a large sum of money was to be raised by a tax of short duration, a personal tax was undoubtedly preferable to such a tax on consumption as the present. When the personal tax expired, all the evils attendant on it expired with it; but of a tax on consumption, which tended to injure the morals, the health, and the habits of the people, the advantage was transitory, the evils permanent and unlimited. He did not expect that his argument would make much impression on their lordships; because he recollected how ineffectual his opposition had been to the shop-tax, which the minister pertinaciously maintained against argument and against reason. All that he had been able to urge against that tax had made very little impression on their lordships' minds, till experience brought about that which argument could not effect. The tax had been repealed in another place, and the repeal being sent up to their lordships, was then agreed to without a single dissenting voice. Equally unavailing had been his opposition to the excise on tobacco; and he had little doubt but time would affect that relief to those who were aggrieved by the excise on tobacco, and those who were likely to suffer by the present tax on malt, which it had done for those who complained of the shop-tax. But by the repeal of the shop-tax all the inconveniences that accompanied it were removed; and so would the inconveniences of the excise on tobacco in a great measure. Not so would the evils of this tax. They would long be felt after the tax ceased to be productive. Under such circumstances, the bill, if not wholly dropped, ought not to be passed with so much incautious haste. Time ought to be given to collect from the various parts of the country which it would most materially affect, information respecting its probable consequences. He was therefore of opinion that the second reading ought to be postponed till after the recess.

Lord *Grenville* said, he had always been desirous of discussing every question on its own proper grounds. Their lordships would not therefore expect that he should say any thing on the shop tax that had been repealed, or on the regulations for preventing frauds in the collection of the duties on tobacco, which had been introduced collaterally into the debate, and which he conceived to have no connexion with the merits or demerits of the present tax. As little did he feel himself bound to notice what the noble lord had thought proper to introduce respecting the state of the public revenue and expenditure. That subject had been before introduced in a discussion to which it had as little relation as to the present, the debate on the convention, under the idea, he supposed, that from the concern he had had in another place in the report of a committee on the state of the public receipt and expenditure, the subject must always be proper, provided he was present. On that subject, however, he would not enter into any debate till the proper documents were before their lordships. That period was fast approaching, and when it did arrive, he trusted that the noble lord who had mentioned the subject before, or the noble viscount who had alluded to it now would bring it regularly before the House. It would then appear, that their calculations were as ill founded, as their mode of introducing them was unseasonable; and that the state of the public receipt and expenditure was such as all their lordships, and every man, who felt as an Englishman, would rejoice to peruse. The present tax made no part of the permanent expenditure of the country. It was part of a system of finance to which, as a whole,

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he had not heard a single objection; of a body of taxes brought forward to defray an extraordinary expense within a short period. Of the objects to obtain which that expense had been incurred, their lordships had expressed their approbation. That they ought to be defrayed there could be no doubt, and that they ought to be defrayed with the least possible loss of time, had been generally admitted. Taxes, to be productive, must be felt; so large a sum as 800,000*l.*, could not be raised within the year without falling heavy somewhere. The only question then was, whether this tax, as a part of the whole, was so objectionable as to deserve to be rejected. He would not say that the money must be had, and therefore that the tax must pass. To such a miserable argument he would not have recourse, because he knew the situation and resources of the country to be such, that if the tax was improper, a substitute could be easily found.—The noble viscount had said, that additional duties on malt were improper, because they tended to diminish the consumption, and to lessen the produce of the revenue upon the whole. Were he disposed to resort to the *argumentum ad hominem*, he might say that the mode of the tax was planned by an administration with which the noble viscount was particularly connected, and of which the present administration were in that respect only the humble imitators. An additional duty of sixpence per bushel had been imposed in 1780; the noble viscount must therefore disapprove of a measure which he had formerly supported, or approve of the present additional duty. This argument, however, he would not press. The tax was to be examined on its own merits. The principal objections he had heard to it were, that it was partial, and tended to produce ill effects on the health and morals of the industrious poor. Every tax must be more or less partial, till that great *desideratum* in finance could be found out, a tax that would affect every individual in the community in the exact proportion that he ought to bear. Could such a tax as this be discovered, there would be an end of all other taxes; but till it was discovered, every new tax must fall heavier in a certain degree on some particular description of men than others. All that could be done was so to calculate the general aggregate of taxes as to bear on all ranks and descriptions of men as nearly as possible in proportion to their ability. Now, what was the case at present? A number of taxes were proposed to raise a large extraordinary sum, within a short period. Was there any one of these taxes that could be said to affect the poor in the least degree, except the additional duty on malt? Not one; and of this they would pay only a share. It was evident, that of the extraordinary aid required, the poor paid perhaps less than their fair proportion. The objection of partiality was consequently done away. With regard to the evil consequences predicted from it, they appeared to have no foundation in experience. If the former additional duty had not put an end to the private breweries, was it to be expected that so small an addition as the present would do it? The additional charge per gallon on the beverage of the poor would be less than one third of a farthing: a charge so small as could not surely prevent any man from brewing for himself who had been accustomed to do so before. It would, indeed, fall much heavier on the rich than on the poor, as the beer brewed by the former would pay three times as much as that usually brewed by the latter. —Notwithstanding what the noble lord had said of the continuance of smuggling, it was certain that lowering the duties on spirits, and the various wholesome regulations adopted by the last parliament, had greatly restrained smuggling, and increased the regular entries of the articles that were the objects of it. It was equally true, that the wealth and commerce of the country had increased in a manner unexampled in any former period, and that the situation of the poor had been so much improved as to enable them to consume much greater quantities of excisable commodities than they had ever done before. To these causes was the increased consumption of British and foreign spirits to be attributed, and not to any diminution of the private breweries by the increased duties on malt. The advantage to the private brewer over the common brewer was still so great, being nearly in the proportion of two to one in point of duty, as to afford sufficient encouragement to all who chose it, to brew at home. Conceiving, on these grounds, that the tax was neither partial, nor likely to produce any evil consequences, he was of opinion that it ought to pass.

Lord *Loughborough* said, he was happy

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to hear from authority, that the finances were in a flourishing situation, that the public receipt exceeded the expenditure, and that there was no pressing exigency which called for instantly passing the tax. The circumstance of their lordships being summoned to discuss tax bills at a time usually allotted to recess from their parliamentary duties, might have induced a suspicion that the demand for money was too urgent to be delayed. But as they had been relieved from any apprehension on that account, he hoped the urgency of passing a retrospective tax, a mode of taxation not very usual, would not be considered so very pressing as to preclude consideration. The making of malt was not a process that could be much hastened; and it seemed hard to be attaching the tax to the stock in hand, to that which men had provided under other circumstances, and without any expectation of an additional duty. When the noble lord said that he and his colleagues in office were only the imitators of a former administration, in laying an additional duty on malt, it would become them to consider what had been the effect of that addition and whether experience had not proved that any subsequent addition would be injurious, not only to the revenue, but to the people. Besides, the circumstances of the times were widely different. The additional duty of sixpence per bushel had been imposed in 1780, a period of great and urgent necessity, in the most expensive year of a most expensive war. The present was declared to be a period of no necessity, when wealth and commerce were daily flowing in upon us, and when, of course, other taxes could be readily found. Much as he respected the noble lord at the head of administration in 1780, he was persuaded that nothing but the necessity of the time could have induced him to adopt that mode of raising money, and that he would not have adopted it, had he been aware of all its consequences. The effect of the repeated additions to the duty on malt had been a great diminution of the quantity consumed, and a very considerable decrease of the old duties, not less than 70,000*l*. If, then, the additional sixpence in 1780, had produced less than it was calculated to produce, and reduced the produce of the old revenue, the value of the duty now proposed was to be estimated only by the surplus left after deducting what it might be expected to take from the produce of the existing duties. It was to be considered, that exorbitant duties not only diminished consumption, but tempted men to substitute other articles for the commodity so exorbitantly taxed. He needed not inform their lordships that the brewers were acquainted with various substitutes for malt in brewing, and that on the beer produced from these substitutes, they obtained a drawback for duty that had never been paid. This operated in the nature of a bounty, and with the addition of superior skill and better utensils, gave them such an advantage as the private brewer could not contend against. In the town of Leeds, before 1780, there was but one common brewer, and his whole stock in trade amounted only to 3000*l*. It would not be imagined that Leeds, containing more inhabitants than some counties, was supplied with beer from such a stock as this. The fact was, that the people were supplied by their own private brewing, which was now nearly suppressed: and since that period, the number of common breweries that had been erected in all parts of the country was inconceivable. The industrious poor who were thus prevented from brewing for themselves, could not be all supplied from the common brewery. It was erroneously supposed, that they all lived in towns where they could have access to the common brewery. Many of the manufacturers, and many who were partly manufacturers and partly farmers, were spread over the face of the country, at such a distance from any public brewery, that the carriage would far exceed the amount of any duty. And those who were prevented from brewing for themselves, a more useful and industrious set of people than the manufacturers collected in towns, had no resource but in the alehouse, or the use of spiritous liquors. The effect of the additional duties on malt, had been to reduce many of this class of people to these extremities, and the effect of the addition now proposed would greatly extend the evil. — Their lordships had been told, that the additional duty was so light, as hardly to be felt by the poor. The pressure of every burthen was felt in proportion to the weakness of him who bore it. Few of their lordships, he was afraid, could form an adequate idea of the effect of any additional duty on a necessary of life to the poor. It had been said, he believed by Montesquieu, "that a farmer-general,

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after dinner, would sign an order by which a whole province might be reduced to beggary and want; and no man could accuse him of inhumanity, because in the first moments of indigestion, it was impossible for him to conceive that people could die of hunger." Thus it was, that the reasoning of men was clouded by the feelings incident to their own situation in life. Let the tax, however, be considered, and the annual amount to a poor man would be found to be heavy. Allowing a gallon per day for the consumption of a family, an additional duty of one third of a farthing per gallon would be five shillings a year. What would their lordships think of a capitation tax to that amount on every adult male of the industrious poor? Would they not reprobate the idea as unjust, oppressive, and cruel? The effect of this tax was still worse, as it tended to corrupt their morals, injure their health, and ruin their industry. In Yorkshire, and other counties, it was usual for the farmers to allow their labourers beer. Was this duty no burthen on them? It tended not only to injure those who were immediately employed in the manufacture, but those who were employed in raising the materials of manufacture, and he was confident would be felt much more in the increase of the poor-rates, than in the increase of the revenue. It was also partial in its operation; although generally imposed by the letter of the bill, it would affect those counties only, where beer was the common beverage of the people, while the cyder counties, and great towns where the common brewer supplied the whole demand, were totally exempted. — There was also another objection to it which would be more properly discussed in the committee. The drawback allowed to the brewer on strong beer was erroneously calculated, and gave a greater allowance on a given quantity of beer than the amount of the duty paid on the malt employed in brewing it. For all these reasons, he thought time ought to be given to consider, and to collect information from those parts of the country in which it was likely to be most felt. Those who were to suffer by it were separated and dispersed. They could not hold meetings to consult on their common grievances, and excite a clamour against a tax. As it was meant to be temporary, its being continued for six weeks longer than was at first intended, could be of little consequence; and this was all the inconvenience to be apprehended from the proposed delay. If, on inquiry, it should appear to be a proper tax, the people would submit to it with more chearfulness, when they knew that it had not been imposed upon them, but on mature consideration, and a cautious regard for their circumstances.

The question, "That the bill be now read a second time," was put and carried. It was accordingly read a second time.

The Speaker's Speech to the King on presenting the Money Bills.] Dec. 29. His Majesty came to the House of Peers, and the Commons being sent for, the Speaker approached the bar with the [illegible] bills, and addressed his Majesty in the following speech:

"Most gracious Sovereign;

"Your faithful Commons attend your majesty with sundry bills of supply, which they have passed for the public service. A large part of this supply has been granted for the purpose of carrying into execution a measure, the principle of which has received the unanimous approbation of your Commons. Actuated by a generous and wise policy, they have sacrificed the considerations of temporary convenience to those which arise from a just regard to the permanent interests of these kingdoms. They have accordingly provided for the complete and speedy discharge of the expenses recently incurred in support of the honour and dignity of your majesty's crown, and the rights of your subjects, without any lasting addition to the national debt, or any embarrassment to that system which has so effectually sustained and advanced the public credit of the country.

"Your Commons, Sire, are induced to hope, that their conduct on this occasion will operate as a salutary example to future times; and that its immediate effect will be to establish a universal conviction of the internal strength and abundant resources of this country, and consequently to afford an additional security for the continuance of the blessings of peace. A measure which is the result of such motives, and which leads to such consequences, your Commons are persuaded, cannot fail to receive your majesty's most gracious approbation."

The bills were then presented, and the royal assent given thereto.

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Slave Trade.] February 4, 1791. Mr. *Wilberforce* rose, to make a motion for the House to resolve itself into a committee, in order to move for a committee to sit above stairs on the Slave Trade. He said he could not conceive what objection could be made to it, and therefore should content himself with barely moving, "That the Speaker do leave the chair."

Mr. *Cawthorne* complained of the long protraction of the examination of the subject of inquiry, by the former committees, and the great mischief that had thence arisen to the merchants and planters interested. He thought himself warranted in opposing any farther procrastination of the main question, but he did not mean to resist the Speaker's leaving the chair, provided the hon. gentleman would state the specific time by which the committee might reasonably be supposed to be able to bring their inquiries to a conclusion.

Mr. *Wilberforce* said, it was utterly impossible for him to enter into any such compromise. In an open committee, where every member might ask as many questions as he chose, he must be a bold man who could venture to say when the examination would end. In the first place, exclusive of the difficulty of undertaking to answer for those even who thought with him upon the subject, how could he tell what number of questions those who contended for the slave trade, would ask the witnesses? How did he know how many interrogatories the hon. gentleman himself might have to propose? With regard to its being desirable to bring the examination to a conclusion, it undoubtedly was most desirable; and the hon. gentleman might be assured that he was not more impatient for attaining that object than he was; every day, nay, every moment that the discussion of the great question was postponed, and the prejudice of mankind respecting the trade suffered to continue, was a moment too much; and this was especially felt by him, convinced as he was, that the more the subject was discussed, the more would all prejudice vanish; and it would be generally acknowledged, that policy, as well as humanity, called for an abolition of a trade so disgraceful and degrading to human nature.

Mr. *Cawthorne* said, he would relieve the hon. gentleman from any difficulty as to the number of questions that he might put to the witnesses, by assuring him that he did not mean to ask one, and that he and those gentlemen who acted with him, would absent themselves from the committee.

Mr. *W. Smith* said, that the delays hitherto were in a great measure to be ascribed to the opponents of the abolition, since out of eighty-seven sitting days, fifty-one had been occupied on their part; and although it had only taken twenty-six days to examine witnesses in favour of the abolition, the gentlemen who contended for the Liverpool merchants, &c. had spent twenty-one days in cross-examination.

Colonel *Tarleton* rose, not, he said, to object to the present motion, but to give notice of a motion which he should state before he sat down. He complained of the injury already done to the numerous merchants, manufacturers, and planters, concerned in a trade that had been engaged in, and carried on for many years, under the faith and sanction of parliament, in consequence of the protraction that had already attended the inquiries of former committees, and said, that when it was considered what volumes of evidence had already been prepared, and to what an extent the examination had been carried, every gentleman must surely have made up his mind upon the subject. He was not averse to any farther investigation, provided it was not made the instrument of unnecessary delay, but the duty which he owed his constituents, made him endeavour to have the main question brought to a final discussion, as speedily as possible. If gentlemen were anxious to exercise there philanthropy, there were a variety of other objects to display it upon. He should suppose the poor laws would afford them sufficient scope for their humanity; or the state of our infant settlement in South Wales. He was as warm an admirer of humanity, and its benign influence, as any man, but he thought that gentlemen might better apply their beneficence, than in prejudicing a trade of great importance to the country, and unnecessarily throwing difficulties in the way of our merchants and manufacturers. He concluded with giving notice, that he would, on that day six weeks, move the question of the abolition of the slave trade.

Mr. *Burke* said, that the argument was new to him, that because there were several acts of charity which required to be performed, they ought not to attend to the one in hand. He confessed he should

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have reasoned in another manner, and have argued, that the best mode of getting through the acts of charity necessary to be performed was, to bring that which they had begun to an end first. It undoubtedly had been in the hon. gentleman's power to bring the business to an end long since; but it was not merely the conclusion of it that was to be looked to; the end to which it was to be brought must be a good end, such as was desirable and answerable to the object. He was glad, therefore, that the hon. gentleman had refused to make any conditions whatever as to the time it would continue. In fact, it was utterly impossible that he should set himself any limits, because it was a business that could not be completed *uno flatu:* it was not a disease to be cured by a single pill, without loss of time or hindrance of business. Those who should be inclined to treat it in that manner, would not, he believed, be considered as the best physicians, but be deemed mere empirics. A skilful physician was the last man to commit himself, and tell his patient that he would be well by such a day; such a man well knew that obstinate diseases required deliberate cures, and must be a work of time; he would not act like medical astrologers, and pronounce that a malady commenced under such a star, and must therefore be brought to a conclusion under such a planet. It had taken a considerable portion of time to proceed as far as the hon. gentleman had done in the business of reconciling the policy of abolishing the slave trade with its obvious humanity, and he had no doubt but it would require still farther time to make those principles combine. He therefore begged leave to thank the hon. gentleman for having answered in the manner he had done, and refused to tie the committee down to any limits in point of time. His hon. friend had said, that there were other objects of beneficence and humanity, which required the attention of that House: undoubtedly there were, and he should think the time of the House better spent in providing for them, than it often was when occupied very differently. He concluded with repeating his thanks to Mr. Wilberforce for his laudable perseverance, and to the committees that had sat hitherto, for their successful efforts; and declared, that if the end of their labours should be the proof of the policy, as well as the humanity, of the abolition of the slave trade, there was not a man in the House who would not rejoice and feel happy.

Mr. *Martin* said, he was extremely sorry that any set of people whatever should be sufferers; but, various as the descriptions of those who required the humane attention of that House might be, no body of sufferers in this, or any other country, could come in comparison with the negro slaves, either as to their numbers, or the severity of the hardships they endured. Much, therefore, as he should lament any prejudice that might result to so respectable a body as the merchants, yet no consideration of prejudice to individuals, ought to stand in the way of relief to so numerous a set of sufferers.

The motion was then agreed to.

Proceedings on Mr. Horne Tooke's Petition respecting the Westminster Election.] Feb. 5. The committee appointed to try the merits of Mr. Horne Tooke's Petition (see p. 921,) being met, Mr. Tooke was called in to open the grounds of his petition. Mr. Powys, the chairman, having desired him to open his case,

Mr. *Horne Tooke* began, by observing, that he was certainly very much interested in the result of the questions that were likely to come before the committee; and he was still more so, on account of the 17,000 electors of Westminster, than he could be from any idea at the time that he started, that he could have the pleasure of representing them in parliament. When his petition came before that committee, it was attended by prejudices that, he believed, never had accompanied any petition that a select committee had ever received before. These prejudices he attributed entirely to the method which the House had taken to discuss his petition the day it was presented. He meant no reflection upon the House; but he would not hesitate to say, that that discussion, which was no ways necessary, had been provoked by the extraordinary observations which the Speaker had made upon his petition. The Speaker, he said, held a very high office, and, as he sat in a former parliament, was, no doubt, acquainted with certain laws, rules, and orders of that House, on questions relative to elections. When the same gentleman was so handsomely re-elected as Speaker of this House of Commons, it might have been supposed that he would, at the commencement of a new parlia-

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ment, have made himself perfectly master of every law, rule, or order, that ever had been made for the regulation of contested elections. From the fate of his petition, however, it would seem, that the Speaker had not given himself that trouble. He had no doubt, at the same time, that the right hon. gentleman had paid due attention to the acts which passed during the last session, particularly one act which he was afraid had so much engrossed the Speaker's attention, that he had totally forgotten all that went before, he meant the act that provided him with a salary of 6,000*l.* a year.

On this observation, the committee room was cleared, and about half an hour afterwards Mr. Horne Tooke was called in. Mr. Powys, the chairman, said, "Mr. Horne Tooke, I am directed by the committee to inform you, that the subject on which you have entered, is irrelevant to the matter which the committee is sworn to hear and determine. I think it necessary to add, that it is expected you will, as soon as possible, state your complaint upon the undue return of the sitting members for Westminster.

Mr. *Horne Tooke* said, he regretted exceedingly that the committee had come to any such resolution as the chairman had communicated to him, because, if he understood it, the meaning was, that he should not be at liberty to state what was said or done in the House upon his petition, what was said out of doors upon his petition, or what the committee might report upon his petition. If he had only to settle a mere matter of election, or to argue against a report which prejudice might occasion the committee to make, and which other committees had made upon petitions, that of being vexatious and frivolous, he should be very indifferent: but there was something much more interesting to the public and to the cause in which he was engaged and would ever persevere in, and that was, that, in the discussion of his petition in the House, it had been said, that his petition, when it went to a committee (though all parties seemed not to be sufficiently acquainted with the law to know whether it ought, or ought not), was not a petition for an undue return, but a proposal for a reform in parliament. As to a reform in parliament, he would say nothing; for it was well known what were his sentiments on that subject for thirty years back; but he would say, that the gentleman who had observed in the House, that he wished to propose a reform in the representation of the people, was one who had lately purchased four boroughs. "I do not," said Mr. Tooke, "mention Mr. Pulteney's, or any other person's name." [Here Mr. Powys informed Mr. Tooke, that the committee would not suffer him to proceed, if he mentioned any thing spoken by any member of parliament in parliament.] Mr. Tooke said, if he had been wrong in any thing he offered, he was sorry for it. From his interest, and the obligations he owed to those whose cause he pleaded, it was not only his wish but his duty, to expedite the decision of the committee upon his petition; but still there was one question which he considered a modest one, and hoped the committee would consider a modest one, and that was, Whether they thought themselves at liberty to make a special report, and say, that his petition was not only vexatious and frivolous, but scandalous and libellous? He quoted the act of parliament which gave the committee a power of reporting on matters, other than was complained of in the petition, and certainly thought that he had a right to know whether they meant to report his petition as scandalous and libellous; and and if their verdict was to be, that he was guilty of scandal and libel, he surely was entitled to plead every thing that might convince them he was not guilty. He had strong reasons for pressing this question, which he urged very vehemently, and proceeded to state the principal cause from which he had to fear the prejudices that could occasion such a report; and he knew well that prejudices must exist with many who heard the discussion on his petition in the House of Commons. He stood before the committee in a very distressed condition, when he considered the manner in which his petition was sent to them. "The petition," he said, "was sent with directions to censure it, not only as vexatious and frivolous, but scandalous and libellous." The words were ordered to be taken down; and being read, Mr. Horne Tooke said, they were the words he used, and desired that the following words, which he likewise spoke as the explanation of the preceding, might be taken down: "The minister of the country, bred to the bar, in his place, while my petition was discussing, said, that he saw no reason why the committee should not report the petition to the

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House, not only as frivolous and vexatious, but also as scandalous and libellous." The court was cleared, and when the parties were called in again, the chairman informed Mr. Tooke, that the committee had resolved, and directed him to say, "That the words taken down are improper, and ought not to have been used, in as much as they are the substance of a debate in parliament, which it is not the business of this committee to take into consideration: and that the committee cannot listen to any animadversions on the conduct of any member, or on the proceedings of the House." And that the committee had likewise resolved, "That the chairman do direct Mr. Horne Tooke to go to the matter of his petition, and state the circumstances of the undue election and return of the sitting members, which is the cause they are to determine upon." — Mr. Tooke then proceeded. He recapitulated what he had said, and then divided his arguments upon the petition, or rather the petition itself, into different clauses, upon all of which he made many observations. He told the committee, that it was his wish to go back to the elections for Westminster in 1780, 1784, and 1788, to bring before them the riots, the bribery, and the abominable corruption of every kind that had prevailed, and, if possible, to point out the remedy. It mattered not to him, nor to the country, who were the actors in, or the causers of, those nefarious proceedings; it was sufficient that they had existed. He said his petition contained many allegations, all of which he was certain he could prove. He said it was particularly unfortunate for him that he was now prosecuting four rioters, and had no doubt of their being convicted; yet before their conviction could take place, his petition had been discussed in the House of Commons, and now was before a committee. The question which he pressed much upon the committee was, "To what extent they would allow him to carry his proof, because he would regulate the calling of his witnesses by their decision?" He spoke till half past three, when the chairman informed him, that the committee considered that he had now concluded his opening, and, in obedience to the directions of the committee, expressed in their resolutions, which the clerk had read, Mr. Tooke must next proceed to state the circumstances of the undue election and return of the sitting members for Westminster. —The committee then adjourned.

Feb. 7. The committee being again met, Mr. Tooke was ordered to proceed to state his evidence upon the matter of the undue election and return. He accordingly set out by intimating, that as the committee gave him no information of what evidence he would be allowed to bring forward, and what they would refuse, he meant, if he had leave, to call evidence on all the different allegations in his petition. He then recurred to the pretended perjury, riots, and murder that had been committed at former elections for Westminster, and said he meant to bring proof of all that he advanced; but being told by the chairman, that no evidence would be admitted, except what was immediately connected with, and relative to, the matter under consideration, and that the committee desired he would proceed to the next point in evidence that he meant to bring forward, he said, that, if he was refused, when he begged leave to prove the murders, &c. that he had mentioned, it was in vain for him to proceed, or to give the committee any further trouble, as, by refusing that evidence, he was convinced that he had brought his own complaint, and the grievances of the electors of Westminster, before an improper judicature, and must now think of some other method for obtaining justice and redress. Mr. Powys, the chairman, then asked Mr. Tooke, if he had closed his case, or had any thing more to say in support of his petition, before the committee proceeded to take into consideration what report they were to make to the House of Commons. He answered, that he had nothing more to state.

Mr. Partridge, as counsel for lord Hood, then addressed the committee. His arguments went to call upon the committee to pronounce that the petition before them was frivolous and vexatious: frivolous in the extreme, from the petitioner having failed totally in bringing any evidence that could support any one allegation in the petition, or any charge that could possibly effect the election of his noble client, who had obtained the pre-eminent honour of being fairly chosen to represent the city of Westminster; who was conscious of that honour, and was determined to defend it. When he considered, that there was no complaint against the returning officer for impro-

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priety of conduct, no complaint against either of the candidates for impropriety of conduct, substantiated even by a shadow of evidence, he was sure the committee would decide this petition to be vexatious in the extreme, as well as frivolous; for it had obliged his noble client to come before this committee, and defend his cause. The conduct of the petitioner was the more reprehensible, because it was impossible it could proceed from ignorance. But even had he been ignorant, which nobody could believe for a moment, he could not have remained so long, when he had the assistance of the learned gentleman on his right hand. He trusted the committee would exercise the power and authority vested in them by act of parliament, and determine that the petition was frivolous, vexatious, and oppressive,

Mr. Douglas, counsel for Mr. Fox, said that, as the arguments used by Mr. Partridge were equally applicable to the case of his client, he would not trespass long upon the committee, as the circumstances stated were in effect common to the cause of both candidates, and were fully sufficient to warrant the committee, to report the petition frivolous and vexatious. He must state, however, that if it was so towards lord Hood, as his client stood so much above his lordship in point of number on the poll, and had been so long the chosen representative of Westminster, certainly the petition was, *à fortiori*, frivolous, vexatious, and oppressive.

Mr. Horne Tooke said, that amongst the strange incidents of his life, it would be not the least extraordinary, if, on account of his petition, he was declared to be an oppressor. He spoke a short time, and played a good deal upon the words frivolous and vexatious. He said he had no doubt the committee might call it, with some degree of justice, vexatious. It was vexatious to the House when presented; and it had, he saw, been vexatious to the committee who had sat upon it, and were, no doubt, vexed at sitting so long; but how it could be vexatious to the candidates, or to the electors of Westminster, it would puzzle the ingenuity of man to point out.

The room was cleared, and the committee proceeded to deliberate. When the House met, Mr. Powys, the chairman, made the following report, viz. "That it is the opinion of this committee, 1. That the right hon. lord Hood is duly elected. 2. That the right hon. Charles James Fox is duly elected. 3. That the petition of the said John Horne Tooke, esq. did appear to the said committee to be frivolous. 4. That the petition of the said John Horne Tooke, esq. did appear to the said committee to be vexatious. 5. That the opposition of the said lord Hood to the said petition, did not appear to the said committee to be frivolous or vexatious. 6. That the opposition to the said petition, by the right hon. Charles James Fox, did not appear to the said committee to be frivolous or vexatious."

Mr. *Burke* rose, and with great earnestness urged the propriety of the House taking notice of a petition so extraordinary in its nature, and of circumstances of such notoriety as had passed before the committee. He laid great stress on the importance of the privileges of that House, which were, he said, of the most inestimable value to the people of England, and ought not to be suffered to be violated with impunity. He contended that the conduct of the petitioner, not only in the style of his petition, but in his behaviour before the committee to whose decision the merits of the petition had been referred, called for their most serious animadversion, and that it would lower the House in the opinion of the people of England, if they passed by so gross and audacious an insult as had been practised upon them. He argued, that notoriety had often been made the ground of proceeding in that House, and that in the present case the notoriety of the conduct of the petitioner was undeniable. Though the House had not before them, regularly, what had passed in the committee, and which he considered to be an aggravation, if possible, of the petition presented to the House, they could not, they ought not to shut their eyes against what was matter of public notoriety and general observation. In that committee, matters had arisen, which called on the justice, the wisdom, and the policy of the House to notice: he suggested the propriety of calling on the committee for a special report, that the House might be enabled to institute a proceeding upon the petition, which they had voted frivolous and vexatious, and which was proved to be neither more nor less than a mere vehicle of atrocious abuse on the House, on the Speaker, on the minister of the country, as a member of the House, and on the constitution itself. The present, he said,

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was a time of dangerous innovation, and he apprehended if the conduct of Mr. Tooke were passed by, it would be attended with most dangerous consequences. The election committees of that House were to be considered as their sheet anchor; they were established, by a sacrifice on the part of the House of an ancient and most valuable privilege, for the purpose of satisfying the minds of the people; and to convince them, by the conduct and effect of a judicature, separated from every possible idea of party or corruption, that the members of that House were duly elected, according to the laws and constitution of the country; with this judicature the people had been well satisfied, and he reprobated every attack made upon them, as he would reprobate an attack made upon the House itself, considering both to be dangerous to their privileges and to the constitution. He wished therefore to take the matter up from its origin, and institute some process upon it in a regular way. He recommended it to the House to direct the committee, whose report had just been received and read, to make a special report of all the facts that had come before them.

Mr. *Powys* rose to defend the committee, of which he had been chairman, from the indirect censure that appeared to have been cast upon them by the right hon. gentleman, because they had not made a special report. The committee, he said, had not felt less indignation at the contents of the petition, than the House had expressed on first receiving it; but they had thought they sufficiently discharged their duty in reporting the petition to be frivolous and vexatious. Conscious that the House were previously apprized of the nature and contents of the petition, the committee did not feel it incumbent on them to do more than inquire into the truth of that allegation, which brought the petition within the meaning of the act of parliament. If it were wished by the House to institute any farther proceeding with regard to what had passed before them, the regular way, he conceived, would be to call for the minutes of the committee, when he trusted it would be found that they had faithfully discharged their duty.

Mr. *Burke* said, it had been far from his intention to cast either directly or indirectly any thing like a censure on his hon. friend, or the worthy committee who sat with him. The purity of their conduct, and indeed of all the election committees, was beyond question. The committee had done every thing within the scope of their power and authority. The House, therefore, could not express a wish that they should have acted otherwise than they had done. All he meant was, to recommend it to the House, for the sake of their own dignity, to institute some proceeding upon a business of so extraordinary a nature, and which had challenged so much of the public attention; and perhaps calling for the minutes of the committee was the more regular mode of conduct. The delinquency of the petitioner ought to be punished. He meant not, however, to press any motion upon the House at that moment. It might possibly be deemed prudent to take time for deliberation, and to postpone the discussion to a future day. He was satisfied with having discharged his conscience in calling the attention of the House to the subject, and it depended upon them to act as they thought proper.

Mr. *Pitt* said, he had been afforded an opportunity of delivering his sentiments on the petition when it was first presented, and nothing that had passed since had inclined him to be more favourable towards either the petition or the petitioner: he still thought the petition to be libellous and scandalous in a flagrant degree; but he begged leave to recommend it to the right hon. gentleman not to make any motion of a sudden on the subject. His suggestion appeared to him to be irregular and improper. Whatever motion was thought proper to be offered must be grounded on the petition, of the contents of which the House were perfectly apprized, because nothing grew out of the report that could warrant a proceeding of any kind. With regard to calling for the minutes of the committee, the idea was impracticable. The committee had fulfilled their purpose, they had made their report, and their object was consequently at an end. They were no longer in existence, and the House had no power whatever to recognise them as a committee. He recommended Mr. Burke by no means to call upon the House to agree to any sudden motion.

Mr. *Burke* again insisted, that the House ought to take some serious notice of the conduct of the petitioner and to punish his delinquency, in making the

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pretence of an election petition the vehicle of a libel against the House itself.

Mr. *Fox* said, he differed from his right hon. friend entirely. He thought the committee had acted wisely in taking no notice of the petition; he really believed that was the most fit way of treating it. They well knew that the House were masters of its contents, and could not derive any satisfaction or information from the committee reflecting them back again in their report. They therefore had acted wisely, and fully discharged their duty, in reporting the petition to be frivolous and vexatious. With regard to the petition having engaged a considerable share of the public attention, he thought his right hon. friend was mistaken; he could not believe the fact; but be that as it might, the law of the land had provided a remedy, and a punishment for all persons who presented petitions that were reported by a committee of that House to be frivolous and vexatious, and that was, that such petitioners should pay the costs. If, therefore, any gentleman thought it worth his while to present a petition to the House, in order to obtain an opportunity of making a speech before a committee and abusing the House or any of its members, the act of parliament annexed a punishment, which he conceived would sufficiently restrain the practice and prevent a frequent repetition of it. He apologised for speaking on a subject in which he might be presumed to be in some sort interested.

Mr. *Burke* rose once more, and after pleasantly observing that his motion had been proved to be frivolous, though not vexatious, and raising a hearty laugh by some verbal wit, contended that his right hon. friend, feeling in a case in which he might be supposed to be immediately concerned, more delicately than he would have done in the case of any other man, had not argued with his usual accuracy and precision. He declared, he never was more clear in an opinion that he had formed, than he was on the present occasion. He was convinced that the audaciousness of the petitioner in first causing a petition of such novelty to be presented to the House (for new it was in the strictest sense of the word), and then pertinaciously persisting in holding language insulting and offensive before one of their committees, called for the most serious animadversion of that House. They were bound to support their committees, and to consider insults offered them as insults offered to themselves. With regard to what he had said of the petition having challenged the public attention in a great degree, he knew it to be a fact. He had talked with many persons on the subject when the petition had been first presented, and it had been the opinion and the expectation of all, that the House would, and ought to take special notice of it, and treat it as it deserved. His right hon. friend seemed not to see the conduct of the petitioner in its true light; he seemed not to be aware, that the offence it held out was not merely that the petition was frivolous and vexatious, but that it tended to lower the House in the opinion of the public, and that it thence became necessary for them to assert their dignity and maintain their importance. After arguing in terms of some warmth against the abuse of the privilege of petitioning that House (the first right the subject had to assert, and the last he ought to abandon), and prostituting it to the purpose of scandalizing and libelling the representatives of the Commons of England, Mr. Burke said, he thought he perceived the sense of the House to be against him; he should therefore content himself with the satisfaction of having discharged his duty, in endeavouring to call the attention of the House to a line of conduct which he thought the occasion demanded.

Mr. *Pitt* said, he could not see how the right hon. gentleman could imagine he had collected the sense of the House on the subject, no regular indication of that sense having been given. For his part, he had risen merely to recommend that no motion should be made of a sudden respecting the matter in question, but that gentlemen might be allowed time to turn the subject in their minds, and form a deliberate judgment upon it before they originated any proceeding respecting it. Out of the report of the committee nothing arose that could warrant any immediate measure, because, having stated that the petition was frivolous and vexatious, the committee had done their duty, and the act of parliament provided what the legislature had deemed to be an adequate remedy. Whatever further step, therefore, was taken, must be grounded on the original petition, which had, when first presented, been some time under discussion, and the contents of which were consequently known to the House. He begged to be understood, as not pre-

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suming to state the sense of the House, but merely as recommending the taking farther time for consideration.

Mr. *Courtenay* said, the wisest way would be to treat the petitioner, his petition, and his conduct before the committee, with silent contempt, in which case they would soon sink into oblivion.

The matter was put an end to, by a motion for the order of the day.

Botany Bay.] Feb. 9. Sir *Charles Bunbury* called the attention of the House to the grounds of certain motions which he meant to bring forward. He began with stating the necessity of rendering the purposes of penal justice effectual by the enforcement of laws wisely calculated to punish the bad subjects of the realm, in order to afford protection to the good. In that sentiment the House must join with him; and it could not be disputed, but that the zeal and provident care of the legislature would fail of its intended effect, unless aided by the active co-operation of the executive government. Care ought to be taken, to discriminate between the nature and extent of different offences, and the degree of punishment allotted to each; because it must be obvious, that there were criminals that afforded a reasonable expectation of the possibility of reformation, and others who called for vindictive justice, by way of example: and unless the line of distinction were drawn, and strictly adhered to, all hopes of reformation in any must be abandoned. When criminals of incorrigible depravity were convicted, and sentenced to transportation, the effect of their judgment ought to be made certain and inevitable, since the chance of its not being inflicted tended materially to add to the number of the guilty, and to encourage the progress of vice. Next, therefore, to the uncertainty of punishment, the undelayed disposal of convicts was dangerous, and ought to be avoided; and as he trusted it must be allowed by every one that government could not be better employed, than in checking the career of criminality, so he flattered himself, every endeavour to forward that salutary end would meet with the cordial concurrence and willing support of all parts of the House. It was a melancholy subject of reflection, that crimes and criminals had multiplied in an extraordinary proportion of late years. Upon an average of the last ten, criminals convicted of capital offences and sentenced to death, had been double in number, compared to those convicted within the period of the preceding twenty years; and of criminals convicted of single felonies, there had been four times as many. This alarming circumstance he thought to be chiefly ascribed to the bad state of our gaols, and to the want of space for separation, and other useful means of preserving a discrimination between criminals of certain descriptions. A great deal, he acknowledged, had been done to cure the evil, in consequence of the suggestions of that good and useful citizen, Mr. Howard, but more yet remained to be performed. The fact undeniably was, that our police must remain defective, if our prisons were not better regulated; and he was perfectly aware, that a better regulation could not take place without incurring a considerable expense; but, heavy as the charges must unavoidably prove, they would, he had no doubt, be cheerfully borne by the people, when they reflected that the number of criminals were reduced in consequence, and that the ultimate effect would be a considerable saving. He meant not, however, to enter farther into that subject at present. He would content himself with referring to his intended motion. In vain would the legislature provide that certain convicts should be sentenced to transportation, if a proper place to send them to were not found by ministers Reports had been abroad, that our settlements in New South Wales were not fit for the purpose; but he would not argue on the vague ground of rumour; he would wait till authentic information was laid before the House; and, with a view to obtain it, he would move, "That there be laid before this House, an account of the number of convicts which have been shipped from England for New South Wales, and of the number intended to be sent in the ships now under orders for that service."

Mr. *Jekyll* rose to second the motion, which, he said, he was impelled to do, from a variety of considerations. One of the principal was, the recollection that the hon. baronet who had brought in the motion, had many years since introduced a bill for the erection of penitentiary houses, which had received the sanction of every branch of the legislature; an evident proof how deeply the hon. baronet had considered the subject, and how much and how generally his sentiments had

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been approved. Why that act had failed in practice, and not been carried into execution, it was not then necessary to inquire. With regard to our settlements in New South Wales, many had their doubts as to the wisdom of that system of colonization. It had been stated, that the soil was sterile, and unproductive of every thing necessary to the nourishment of man, and to the support of human nature. If the fact should appear to be so, he had little doubt but that government would agree to quit so disastrous a system. The present motion, however, would go to the humanity, as well as to the policy, of the measure. It would bring the real state of the case before the House, and would satisfy the public whether the rumours that had gone abroad, of the improvident situation of the colony in New South Wales for the reception of exiles were founded or not. He understood there were at this time 1850 convicts on the point of sailing for New South Wales. He could not but in candour suppose that the present motion having been made, the sailing of this additional number of transports would be suspended till the subject of the motion had been regularly discussed. The delay could not be dangerous, nor attended with any material inconvenience.

Mr. *Pitt* said, he had no objection to the motion; on the contrary, he was glad it had been made, because, if reports prevailed that the settlement at Botany-bay was disastrous, and contrary to the purpose intended, it was most desirable that the public should be relieved from the prejudices which such opinions necessarily created, by having the real situation of the colony explained, and stated upon grounds of authority. Government, he said, were convinced that the reverse was the fact, and that there was no reason whatever for any such apprehensions as had been hinted at. With regard to what the learned gentleman had said, relative to the suspension of the sailing of the vessels now going with convicts abroad, he should betray his trust, as a minister of the Crown, if he were to advise a moment's delay, in dispatching those vessels to the place of their destination. What good purpose did the learned gentleman suppose could be answered by it, granting, for the sake of argument, that Botany-bay had proved improper for such a colony? Were the convicts now embarked to be detained till some new place of settlement was explored, and all the first expense again encountered? Or, if it were thought better to distribute them in penitentiary houses, were they to wait till proper houses were erected? In what way were they to be disposed of in the interim? If Botany-bay was not capable of receiving them, he would freely acknowledge, that ministers were highly reprehensible for sending out so many as were now on the point of going there; but government had no reason to suppose it to be the case. In point of expense, no cheaper mode of disposing of the convicts, he was satisfied, could be found. The chief expense of the establishment of the colony was already passed and paid. Why, then, were they, unless strong reasons indeed operated to enforce the measure, to begin *de novo*, and make a new colony? And where it could be made to more advantage he really was a stranger. That it was a necessary and essential point of police to send some of the most incorrigible criminals out of the kingdom, no man could entertain a doubt, since it must be universally admitted, that it was the worst policy of a state to keep offenders of that description at home to corrupt others, and contaminate the less guilty, by communicating their own dangerous depravity. With regard to penitentiary houses, he hoped to see them become general, and that every county would adopt the plan, since a proper discrimination between such offenders, as, from their hardened profligacy, ought to be made examples of, and such as afforded hopes of reformation, was absolutely necessary. In respect to Botany-bay, as transportation appeared to him to be a very fit punishment for incorrigible offenders, he saw no reason to hold out a prospect of luxury to exiles; nor did he wish that the effect of their conviction should be so described. On the other hand, he should be extremely sorry, if, by any accident, the severity of their sentence were aggravated, or that they should not meet with that degree of accommodation which the humane principles of British laws intended, and which was proper for persons in their situation. As far as government had yet heard, he was convinced, that the condition of the felons who were sent to Botany-bay, was far preferable to that which befel them under the former mode of transportation, previous to our loss of the colonies. Mr. Pitt added some other observations, all tend-

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ing to do away the prejudices under which, he said, he saw the present subject had been taken up, and to prove the impolicy of delaying the passage of the convicts already shipped for Botany-bay. The motion was agreed to.

Mr. Burke's Motion for limiting the Impeachment of Mr. Hastings.] Feb. 14. Mr. *Burke* rose, he said, in order to follow up his former motion. But first, he begged leave to congratulate the House on having ascertained the important question of the continuance of the impeachment. The House was no longer subject to the imputation of being bastardized, attainted, corrupted in blood, with its succession and its inheritance of justice from former parliaments cut off. It continued in full possession of all its rights, notwithstanding the effects of a dissolution, and was proved, at the commencement of a new parliament, to be *alius et idem*.—that the House, like the great luminary to which this description was applied, preserved its identity under all its changes. The House set in justice: it rose in justice. On the event of this important discussion, he begged leave not only to congratulate the House, but to congratulate the country, to congratulate the constitution, to congratulate liberty, to congratulate law, and to congratulate human nature itself.

After the decision which had been given on this question, he ought not to fear that any part of their future conduct would be unworthy of the principles which they had thus strongly sanctioned. Every right implied a duty; and having established the right, it was not to be apprehended that they would decline to discharge the duty with which it was connected. Such a conduct would, by their former decision, only be rendered more odious and disgusting. But having established the right, it was not to be supposed that they meant merely to claim it nominally, but to give it energy and effect, to render it real and impressive. He would not, however, dissemble. He understood that there were opinions entertained in the House, and abroad, inimical to the exercise of the right in question. The principal ground on which those who objected rested their arguments was, because the impeachment had already continued so long without effect. But it was to be considered, how far this argument ought in propriety to influence the giving up the impeachment. Here two questions arose; whether the charge was just, that is, whether the allegations of the impeachment were founded in truth? and if they were granted to be true, whether the importance of the impeachment itself was worthy of the perseverance of the House?

Having pledged themselves to carry through their accusation, to make good their charges, according to the common sanction of engagements, they were no longer at liberty to deliberate on these questions. They were bound by honour, which was the strongest of all collateral engagements, to the performance of a duty. However, to make honour a binding principle, it must not be separated from justice. If, since the time of their having given their solemn pledge, they had discovered that the grounds of their charges were false, malicious, or even frivolous, it was not merely sufficient, in order to do justice to the accused, that they should decline the impeachment. Something more was necessary on their part, and due to the individual who had been the object of their attack. In such a case, repentance became them; having discovered their error, they could only atone for it by the most sincere contrition; and in order to evince the sincerity of this repentance, as well as to repair the consequences of their injury, it became them to avow to Heaven and earth their error, and to proclaim, in the face of their country, the innocence of him whom they had accused. They were to look to no considerations either of pride or policy in making this atonement. It became them not merely to acquit him, but to pay the damages which he had incurred in the course of a prosecution, that had originated from their rashness, or their injustice. It was human to err, but having once discovered their error, it was incumbent on them to make the proper expiation. Repentance was an amiable virtue, and particularly suited to a being liable to frailty and mistake. They ought to beware, that in order to avoid the shame of confessing that they had been wrong, they did not incur the imputation of farther guilt. There was a degree of infamy attached to the present impeachment: that infamy must fall somewhere: it must fall on the subject of the impeachment, if he be duly convicted: it must fall on them if they weakly abandoned the impeachment; it must fall on

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the Lords if they decided unjustly. It was evident, however, that it must fall somewhere, and it was their duty to provide that no part of it should be imputable to them.

The second question to decide, before they determined to abandon or support their prosecution, was, whether, along with its justice, it was important. On this there could be little difficulty. All parties were agreed, that a heavier charge of guilt, and of a guilt affecting more extensive objects, had never been made against any man. But if convinced that their prosecution was of the highest justice, and of the most serious importance, and, if having declared that the conduct of the panel was a disgrace to the country, would not the House, by declining the prosecution, leave its honour open to aspersion? Would they not incur all the criminality of those bad measures, which having detected, and brought to the bar of justice, they had wanted honesty or spirit to prosecute to the period of sentence? Upon what pretence could they arrogate to themselves the right of calling a man to account for oppressive acts, whilst in the pretended exercise of that right, they should act as if they were guilty of a system of the most flagrant oppression.

If the impeachment should be abandoned, solely on account of the length of time which had already been employed in its prosecution, a precedent of the most dangerous nature would be established, and an opening made for every species of abuse. If from the defect of the laws, or any other circumstance, a trial should be protracted, a door would be provided for the escape of the criminal. Nay, the greater the enormity of his guilt, the less certainty would there be of his punishment, as in proportion as his crimes were numerous and complicated, would be the chance of a long trial; and if the criminal should, by chicanery, or whatever evil arts, be able to protract his trial, his new guilt would become a protection to his old, and he would thus be able not only to hold back, but wholly to elude the course of justice. The hardship of a three years trial had been much enlarged on; but before this hardship could, with propriety, be the subject of complaint, the particular causes which had occasioned delay ought to be investigated. A trial may be long by its nature. But must every trial, long by its nature, be abandoned? This would be to abandon trial itself, and, at the same time, to quarrel with nature. The penalties of law would become useless, and prosecution would be only a more secure mode of indemnity provided for the criminal.

The House ought to consider, and to balance inconveniences. A long trial was an inconvenience, but it might be an inconvenience inseparable from justice. Let them weigh the consequences, on the one hand, of continuing it for a long time, and, on the other, of abandoning it on account of its length. In the first case, if any man in high office or authority, should, from his conduct, have incurred general odium, and have so much excited the voice of general accusation, as to be deemed a proper object of impeachment by the representatives of his country, it might be a very long time before he could be finally acquitted or condemned. There was the whole—a hardship to an individual; but a hardship to an individual largely salaried to bear the responsibility annexed to a high situation. But even this hardship might be salutary, as it would teach governors, and persons in office, to shun not only guilt, but suspicion. But take the consequences the other way. If by abandoning the punishment of high criminals, because we cannot bring them (as we seldom can bring such criminals) to speedy justice—we hand over whole nations to the pride, the fury, the avarice, the extortion, the oppression, and the tyranny of their governors. These two sorts of inconveniences were not equal in any equal eye.

The impeachment certainly had continued a very long time. A learned gentleman had, with much solemnity, asked, who could have thought that it would have lasted three years? To the general proposition, which seemed to be implied in this question, he begged to enter himself as an exception. He, for one, thought that it might last three years. He had been aware, at its commencement, of the length to which it might be protracted. During its progress, he had wished and endeavoured to avoid all unnecessary delay; it had been his aim to bring it to a speedy conclusion. In that he had failed. Was he, therefore, to fail in all the rest? After three years, his resolution to persevere in the prosecution of it was still unabated, and his activity alive; and so far from abandoning it, on account of the delay or fatigue with which it had been

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attended, he found his determination confirmed, and his ardour enflamed, and would, till the last moment of his life, persist in a cause, to which he considered himself as bound by duty, and to which he was pledged by honour. Were they certain that such delays might be inseparable from the nature of the trial? Were there hour-glasses for oppression? The hon. gentleman who had complained of the length of the trial, had, in this instance, measured by the standard of the comparatively meaner transactions with which he, from his situation, was most immediately conversant. The rabbit, that breeds six times a year, cannot pretend to ascertain the time of gestation proper for the elephant. The process employed in an action of assault and battery, was no measure for the assaults on the rights and privileges of a people. An action, *quare clausum fregit*, or *de parco fracto*, furnished no standard for the trial for breaking down the fences of general property, and desolating whole provinces. The trial of an indictment for stealing privately from the person, could not afford an estimate of the time necessary for explaining and proving the robbery of all the treasuries of a great kingdom. In the mode of estimating which the hon. and learned gentleman had adopted, he appeared to have been more influenced by his employment than his abilities. The gentlemen of the law possessed the talent of magnifying and diminishing, as they chose to turn the telescope. Partridge, in Tom Jones's Reports, in giving an account of an action that had been brought against him for damages, because a little pig had broken into a garden, said, that the counsel raised such a clamour about his poor little pig, that it might have been supposed that he was the greatest hog dealer in England. So in this important affair, the gentlemen of the law talked so slightly, and would make it appear a matter of such small consequence, as if it was really the business of the little pig. Thus, according to the point of view in which they represented it, did they magnify trifles into importance, or sink into meanness affairs of real consequence.

It was now more than ten years since, under the special authority of the House, he had turned his attention to India affairs, with a particular view to the subject which was now under consideration. Ten years, and especially at a certain period, formed a very great part of the life of man, *grande humani ævi spatium*. Time, then, and especially so large a space, became of too much value to be wasted in trifles, or employed in any but objects of the highest utility and importance. Many causes had concurred to protract the continuance of the present business—*longa est injuria, longæ ambages*. At such a period of life, and during so long a space of time, what ought to be presumed from this perseverance? That the objects of the inquiry ought to escape, and the inquirers ought to be given over to the resentment of the present age, and the odium of all posterity! It would, indeed, be a phenomenon of a most portentous kind, if a man could be found, who, without resentment of personal injury, or inducement of private interest, could have persevered, with such an atrocious constancy, in persecuting an innocent man. Any man who could be capable of such conduct, might surely be reckoned a monster. Nay, he believed that history, which was in general but a catalogue of the crimes of men, did not furnish an instance in which one human being, without any motive, had for so long a time continued to prosecute another, merely for the pleasure of calumniating innocence, and enjoying the triumph of unprovoked malignity. Be that as it might, as to his own particular, he gave himself up. It was possible that one such monster might exist. If they pleased, he was that monster. But the wonder did not end here. It was in the nature of monstrosity to be rare. But here were no less than twenty of these monsters, all existing at one time, and in one country. The rest of the twenty managers who were associated with him in the same pursuit, and had discovered equal zeal and assiduity, must appear in the same light. Portents and prodigies were grown so common, that they had lost the name. Under the same designation of monstrosity the majority of the House must be included. They, too, had persevered in their deliberate malignity and injustice; for besides the three years of the trial, the Commons had taken two years to consider of the business, before they carried it to the Lords.

It might be imagined by some, that the committee who were engaged in the management of the impeachment, were men particularly ill natured. On the contrary, the world would bear testimony

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to the members of whom it was composed, that they were persons (himself always excepted) who were known to carry the virtue of good nature perhaps to a fault. Of one gentleman he could speak the more freely, because he was absent, and could not be prevailed on by his friends again to come into parliament. It was Mr. Montagu; whose affability of disposition, sweetness of manners, and moderation of temper, were not less conspicuous than his high abilities, and extensive information, particularly in the law of parliament, in which he had perhaps few equals; yet even he had certified the strongest zeal for the impeachment, and the firmest perseverance in its prosecution. It might, then, be supposed that the other members of the committee were men rash and ignorant; but to their knowledge and abilities, on other occasions, the House were not strangers. Presumption, therefore, as far as it could have any weight, was entirely in favour of those who conducted the impeachment, that it was neither their malignity, nor their folly, nor their ignorance, which protracted the business to such a length—that if there was any fault, it did not arise from them.

An attempt had been made, by those who entertained different sentiments, to pervert the common sympathies of men. Those sympathies go with the oppressed against the oppressor, with the magistrate against the delinquent: they were the best and most powerful instruments of our nature, and ought not in their application to be converted to any purpose of abuse. Much had been said of the compassion due to the panel; but any attempt to excite compassion, previous to judgment, was almost tantamount to a confession of guilt. If compassion was to be excited on the present occasion, why was it not attempted to be excited in favour of the poor Indians, who had some of them, during twenty years, and almost all of them during fourteen, suffered every species of cruelty and oppression which could possibly be inflicted during such a period? If the tide of sympathy, which ought to accompany the course of justice, was to be turned to the criminal, who would undertake the disagreeable task of detecting guilt? Who would submit to the labour of investigating evidence, or impose upon themselves the severe necessity of pronouncing sentence, in opposition to the feelings of mankind? If the committee had not regarded the honour of the House and the interests of the community, as interested in carrying through the impeachment, would they have prosecuted it with such unwearied zeal, with such unabated activity? Had the members no dear domestic ties, no liberal amusements, no natural desires, the gratification of all which was superseded by the higher consideration of duty? The two ministers, or at least those who from their situation, approached nearest to that character, had, in the most decided and unequivocal manner, expressed their opinion on the subject of the continuance of the impeachment; a conduct which, as it might rarely be expected to happen, reflected on them the highest credit. With regard to the circumstance of delay, which was assigned as the ground on which the impeachment ought to be declined, perhaps it was worth while to inquire, whether it was imputable either to the conduct of the managers, or the nature of the trial. There was a great fallacy in the statement made by gentlemen. Three years had, indeed, elapsed, since the trial began; but of these three years it had only occupied sixty-seven days, at the average of about four hours a day. Had no cases occurred, in which an equal space of time had been employed on a business of less difficulty and importance? One instance might be produced, in which the case of an election had occupied ninety days; some others above sixty, and many more hours employed in each day. To those who reckoned by the revolutions of the sun and moon more than by the necessities of human affairs, it might appear a long period which had been employed in the impeachment; but those who considered what was the space allotted to business (a space not within the choice of the managers) and what had been done, would find, perhaps, that no time had been lost. Fifty criminal allegations had been proved under very great difficulties.

There was another fallacy used by those who, to screen the criminal, were always cavilling with the conduct of those entrusted by the House with his prosecution; that in these three years they had not gone through above four articles. The fact was this: the crimes had been found so numerous, that they had not, as usual, divided them into separate articles, but into classes. Under each of the classes, (in form, indeed, called articles,)

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were included a number of charges, alone sufficient to have constituted a distinct impeachment; and he might affirm, that in the whole body of charges was included as much criminal matter as had occurred, perhaps, in all the impeachments to be met with in English history. The preliminary discussion in the House of Commons had occupied nearly as many days, and many more sitting hours, he believed, than the trial in Westminster-hall.

Among the obstructions which the managers had encountered in carrying on the impeachment, might be numbered the prevalence of the Indian interest. Indian influence now extended from the Needles off the Isle of Wight to John O'Grott's house. Wherever it prevailed, it had a tendeney to make every thing else gravitate to its centre. It was to be found in the House of Commons itself. Well it might seem for the people of India, that they had so many to plead their cause: but it was to be doubted whether gentlemen, who had acquired fortunes in India, were proper representatives of that people. They were, in his opinion, the antichrist of representation. Habituated to a different mode of thinking, and different forms of government, from those which subsist in a free country, they were not the representatives of the feelings and grievances of the people. On the contrary, it was to be feared that they were the representatives of tyranny and oppression, and that they would naturally wish to suppress all inquiry which would strike at the root of their own opulence and greatness. Indian influence, as it was found every where, must be found in the other House. Mr. Hastings had declared, that even with the arbitrary power which he exercised (whether he had a right to assume it was a different question), he found it impossible to correct certain corruptions, because the sons of great families came to the country for the express purpose of acquiring immense premature fortunes; nay, that it was a topic so delicate and dangerous, that he hardly dared even to touch upon it. An opinion too favourable to Indian influence, seemed to have circulated also among the people. Upon the principles of a false patriotism, they argued, that whatever brought money to the country, must necessarily be of advantage, and whilst that money was expended at home, it was unnecessary scrupulously to inquire whence it came, or by what means it was acquired. Another obstruction to their progress in the impeachment was, that almost every man who had been, or who hoped to be, high in command abroad, was an enemy to impeachments. Persons in such responsible stations were apt to conceive them hurtful to public business, and could not divest themselves of the feelings which their own situation inspires. This would influence even good men more or less. It was natural to power to abhor responsibility: "Atqui nolint occidere quemquam posse volunt."

But the greatest obstruction of all proceeded from the body of the law. There were no body of men for whom he entertained a greater respect; he hoped, therefore, that what he should say, would not be regarded as the effect of prejudice. For the profession itself he felt a degree of veneration, approaching almost to idolatry: it had for its object justice, the most sacred of all human virtues; but the members of the body, he remarked, were apt to be influenced with a very natural prejudice, which the French called *esprit de corps*, which was apt, on some particular question, to influence their judgment. In whatever respected the privileges of their order, or had a tendency to lessen their credit and authority, they were ready at once to take fire. Hence proceeded their enmity to impeachments, by which they who on every occasion called all others to account, were themselves rendered liable to be called to account. Upon entering on the business of the impeachment, he was told that they would have to encounter all the obstructions which the law creates; and he must remark, that those who could naturally do most to forward justice, of course must have the greatest power in raising obstacles, in order to protract the course of investigation, to embarrass the mode of procedure, and evade the decision of justice, as their profession furnished them with the weapons in their own hands. The first sinister augury which appeared in this business, and which they all remembered, was, that it was industriously given out that they would be gravelled in their evidence. The prophecy that was made had been fulfilled: from the quarter of the law, and on this very subject of evidence, they had met with the principal part of their difficulties and obstructions. Under these difficulties and discouragements, they thought, however, it would be no apology to them to plead, that they were baffled from want of

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abilities for the work they had undertaken. They did their best, therefore, to become acquainted with the nature of their cause; the nature of their own power and rights; the nature of the tribunal before which the cause was to be tried; and the nature of the law by which all was to be decided, both with regard to the merits and to the process. Indeed, if a surgeon was punishable who undertook a cure for which he was not qualified, the guilt was certainly much greater with those who, without being properly qualified interfered in the concerns of the state, in proportion as the danger of their incapacity was more extensive. They found that the House of Commons had always claimed as a privilege an ignorance of the common municipal law, and without regarding themselves as bound by any forms, had acted merely from the facts which were before them, upon the principles of common sense. Their next business was, to ascertain the nature of the tribunal; this they found was not regulated by the law and practice of other courts, but had a law and usage of its own perfectly distinct, and of greater dignity. In this part of his speech, Mr. Burke entered into a detail of legal authority, which he traced so far back as the reign of Richard 2nd, and followed up with different instances to the reign of George 1, with much learning and ingenuity.

From what happened in the case of sir R. Tresillian, and the impeachment of lord Bacon, it appeared that the tribunal of the upper House was not regulated by the forms of the civil or the common law, or the customs of inferior courts. This policy of our ancestors might appear rude when viewed through the medium of antiquity, but bore in itself the marks of a profound wisdom, not always to be met with in the institutions of modern times: in the words of Pyrrhus upon viewing the Roman camp, "There is nothing barbarous here." The law of parliament was pretended to be regulated by the rules of courts. Every deviation from them was censured. It was exclaimed, that the committee had set up another law, and another usage; they had, indeed, set up another law, but not another usage. In differing from the law of the court, they had only maintained the usage of parliament. The authority of Foster to this purpose was decisive. [Here he cited the authority.] They had pleaded *non pro tribunali, sed de plano;* in plain language, and not in terms of the court. When plain men imposed upon themselves the necessity of employing technical language, they deprived themselves of the guidance of their own understanding: they were led in the trammels of the lawyers, by whom they submitted to be directed. Besides, how could they call to account the great officers of the law, if they were themselves the sole interpreters of the law by which they could be judged? As the privilege of impeachment was intended for the security of law and liberty, it was necessary that it should not be straitened in its mode of operation. They would have betrayed liberty, the constitution and law, and justice itself, if they did not contend for a law of parliament, distinct from the law of Westminster-hall paramount to it, and capable of superseding and controlling it in every thing different from substantial justice. This he held to be so essential, that if instead of the time that had been spent in its assertion, they had spent their whole lives in maintaining it, the time would have been well bestowed.

It was charged on them too, that they would have obtruded evidence on the Lords, contrary to its fundamental principles: that much pompous language had been used of the inflexible laws of evidence, which were to prevent them from bringing powerful and artful villany to light. That they had made it their business, with great attention, to examine this point on which so much stir had been made: That though there were some rules for restricting testimony by witnesses, with regard to evidence, which is of much larger extent, that there is no rule of evidence whatsoever; but that it must be the best which the nature of the thing admits, and it is in the power of the party to produce, which refers not the case to the rule, but the rule to the case and the parties, and which, in effect, proves that there neither is, nor can be, any general or inflexible rule of evidence. But if there be no clear rule for direct evidence; and that even the limitations concerning witnesses, are in a manner eaten up by the exceptions, to say that there are rules for circumstantial evidence, is not to talk like a bad lawyer; it is to talk like an idiot. He said, that much of the evidence was of that nature; and that Mr. Justice Buller, (whom he quoted, with much commendation of his abilities), had declared it, in many cases, the best of all evidence. It was the only one often possible to be had in secret crimes, such as poisoning and bri-

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bery; though they were not bound by the rules of inferior courts; yet, the fact was, that the managers had seldom or ever offered to produce any evidence, but such as all those larger tribunals were in the constant habit of receiving in criminal causes; and he threw out a challenge to the lawyers, defying them to prove that any evidence offered by the managers was contrary to the principles of common, of civil, or canon, or any other law whatsoever.

Here Mr. Burke entered into a full detail of the process of the impeachment before the Lords, which led to an account of the difficulties and obstructions which had been thrown in the way of the managers, and a most able and eloquent vindication of the conduct of the whole business. He then made a solemn protest against any limitation of the charges, all of which the committee were able to prove, if the temper of the times, and the criminal impatience of too many persons, would permit them so to do. But all mankind must bend to circumstances. Therefore, he now, in compliance with the unhappy circumstances of the times, meant to call their attention to a motion for the limitation of the impeachment. In the fixed and unalterable course of human affairs, it had pleased God to decree that injustice should be rapid and justice slow. Justice could only be obtained by a long course of labour and series of time. The motion which he was now to make, he trusted, however, if not measured by impatience, or the revolution of seasons, would bring the business to a very speedy decision. Mr. Burke concluded with moving. "That in consideration of the length of time which has already elapsed since carrying up the impeachment now depending against Warren Hastings, esq. it appears to this House to be proper, for the purpose of obtaining substantial justice, with as little farther delay as possible, to proceed to no other parts of the said impeachment than those on which the managers of the prosecution have already closed their evidence excepting only such parts of the impeachment as relate to contracts, pensions, and allowances."

Sir *John Jervis* thought, that before the House proceeded in the impeachment, they ought to have some explanation upon the present state of affairs in India, and particularly so, as he was given to understand that the system laid down by Mr. Hastings had been persevered in by the present government uniformly.

Mr. *Mitford* declared, that thinking himself bound by the late resolution of the House, he should not have objected to the naming of a committee; but he felt embarrassed by the present motion, as he considered it highly objectionable to impede the prosecution in any way, after such resolution, and he must therefore oppose the motion.

Mr. *Pitt* expressed his surprise at the ground of opposition stated by his learned friend, as the House could not consistently vote for the managers, until they had first voted that there was ground to proceed, which they would do, by adopting the motion, and which only reduced the impeachment to a narrow extent, and rendered it less equivocal.

Mr. *Mitford* said, he felt a peculiar degree of embarrassment: for when he was called upon to vote the right of the House to proceed, he was cautioned against giving his vote in opposition to the resolutions of a former parliament, and he was now called upon, by the same persons to vote in opposition to the resolutions of the former House, by agreeing to a motion to put an end to the impeachment, by quashing the last seventeen charges.

Mr. *Erskine* said, he only rose to prevent any misunderstanding of the principles which had induced him to take the lead in opposing the former resolution concerning the impeachment. Although he sincerely commiserated the condition of Mr. Hastings, as unparalleled in the annals even of parliamentary justice, yet the part he had acted was neither built upon compassion, nor upon any investigation of the merits of his case: the principle of his former opposition to the resolution which the House had voted was, his opinion, as a lawyer, that the impeachment, whether well or ill founded, was, by the course of parliament (which to that point was the law of the land), abated or discontinued: he had delivered it as his conscience dictated, and according to the best lights he then had upon the subject. He had since taken pains to improve them, and was only more and more confirmed that his first opinion was well founded. The situation of things was now, however, greatly altered. The House was committed to an opinion on the subject, and it was absurd to suppose, that the large majority which had so recently voted the resolution, could possibly depart from following up its consequences to-night. The House had voted

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that the prosecution was still pending; it had declared, that with respect to the state of an impeachment, a dissolution differed in nothing from a prorogation, nor a prorogation from an adjournment, nor an adjournment of six months from one of a day: they were, therefore (at least according to the resolution of the House), exactly in the same situation, as if they had come out of the House of Lords the day before; all the resolutions even of the former House remained valid acts; and the prosecution having thus been voted to remain untouched by the dissolution, it followed, that they who would now stop its course, must take upon them the burthen of showing why it should not farther proceed. He could not, therefore, agree that the agitation of the question of discretion should come from the managers; on the footing of the resolution, which was now binding on even those who had opposed it, it lay with those who sought to discontinue it. On the rumour, therefore, of a motion for its discontinuance, he came down, ready to listen to any grounds that could be laid before him to justify such a judgment; but no such materials had been produced. Undoubtedly, the House, notwithstanding the dissolution, might discontinue or abandon its prosecution, on principles of private justice, or of public policy, or of both mixed together; and as the law was not found strong enough to stop it, he for one, should have been most happy to have attained the effect by it, by any mode consistently with his duty. But in the present state of things, reasons for abandoning the prosecution must be clearly made out within one of those principles, by those who proposed the discontinuance. For that purpose, it would not be enough to show a probable case of innocence in the accused; they were bound to think him so till convicted; the prosecution only proceeded on probable cause of guilt; and therefore, if the honourable and unfortunate gentleman should be acquitted, he would not, as had been thrown out, agree in thinking that it would be any triumph over the Commons of England; but on the contrary, they would be bound to be parties to the acquittal, and to rejoice in the event.—To stop the proceeding, on the principle of private justice, if its continuance was legal, which it had been voted to be, the articles must be shown either to have originally contained no criminal matter; or if containing criminal matters, that the courts below had a competent, adequate, and safe jurisdiction over them; or that the articles were voted without proof; or that taking the proceeding to have been well instituted, it had appeared since, from defect of evidence, to have been founded in mistake. All these were grounds of discontinuance; but no materials of these kinds were before him for his judgment, and the presumption, till rebutted, was in favour of regularity in all these things.—The next principle, which applied more to the debate, was the public policy of discontinuing it. But there, too, he wanted the data to form a correct judgment. In the first place, the principle of lord Cornwallis's conduct, and the necessity of it; his consequent justification and merit, which was to apply to the case of this impeachment, were points to which he could not hastily, and on the materials before him, make up or bind his judgment: he neither knew the facts of lord Cornwallis's conduct, nor would he pledge himself to approve it, before there was a necessity, and before he had examined all that belonged to so large and important a subject. But a much greater difficulty was behind; for, supposing he were convinced of all that has been alleged respecting that noble person, he wanted materials equally to make the application. Not having before him either the articles or the evidence against Mr. Hastings, the acts he was charged with, or the circumstances under which he acted, how could he determine that the cases were parallel? And if they were not parallel, the proceeding in the one involved no question of private justice or public policy, which bore at all upon the other.—These were the reasons why he could not give his vote to stop a prosecution which, by the resolution of the House, nothing had interrupted, and which remained, therefore, to be proceeded on; as, of course, unless they who moved to discontinue it, could show that it never should have begun, or having begun, should, from intervenient facts, be abandoned, on the other hand, bound as he was by the resolution which gave that turn to the debate, he must not forget that he had declared the continuance to be contrary to law; and retaining most clearly that opinion, from which he never would depart, it would, in his judgment, be inconsistent to vote for the continuance. He would, therefore, without

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meaning any disrespect to the House, decline taking any share in the decision of that question, or any other upon the subject, till he saw, by the judgment of the House of Lords, that the prosecution still had an existence. When that point was decided, it would be time enough to arrange the forms, and to consider the justice of proceeding: till that decision was pronounced, he should consider the resolutions as premature, or at least unnecessary.

Mr. *Bastard* said, that if the papers he had moved for, were before the House, he was persuaded the impeachment would no longer be persevered in. Had those papers been upon the table, and a motion made to proceed with the impeachment, he had intended to have moved an adjournment until those papers could have been fully considered; and he pledged himself, that upon such consideration it would be proved, if the present House adopted the principles of the last, that the war in India was at an end, for India was lost. He wished not to censure either lord Cornwallis or general Meadows, nor was it his practice to pledge himself lightly, but this he would again and again pledge himself to, that the conduct of Mr. Hastings and the present government of India, were perfectly analogous.

Mr. *Pitt* could not conceive that the papers alluded to contained any thing that ought to have any influence whatever upon the question before the House. The hon. gentleman had stated no inference from those papers to warrant such delay: when he should, the House would be enabled to decide whether it was substantial enough to delay a decision of the question; from what he understood of the affairs of India at the present time, and at the time alluded to by the hon. gentleman, they bore no analogy whatever.

Mr. *Bastard* said, that Mr. Hastings had been impeached for a breach of treaty, for the purpose of raising money to carry on a war; now, from the papers he had moved for, he pledged himself to prove that lord Cornwallis and general Meadows had done the same, and upon that he rested his analogy.

Mr. *Fox* said, the hon. gentleman's reason had not at all convinced him of the impropriety of an immediate proceeding, nor, he hoped, would it convince the House; for if lord Cornwallis and general Meadows had violated the line laid down for them, it was the strongest possible reason for the House to proceed in the depending impeachment with every practicable dispatch, that they, and every other servant of the country, might either be deterred from the commission of crimes, or be brought to punishment for them.

Mr. *Bastard* was not surprised at the wish of the opposition side of the House to proceed: he was of opinion, however, that it behoved the other side, and some persons who now sat there, to pause.

Mr. *Dundas* said, that he felt no reason whatever to pause. The pledge of the hon. gentleman, so solemnly given, he was positive could never be redeemed. He knew that every step taken by lord Cornwallis, or by general Meadows, was warranted by treaties. If they were guilty, others were implicated in their guilt. If there had been any such proceeding going on in India, as had been intimated by the hon. gentleman, it called loudly on the House to press forward, and to be more eager in their present prosecution, in order to put an end to such gross conduct in future.

Mr. *Bastard* declared his opinion to be, that instead of the trial lasting only seven days longer, as had been stated, it would last more than three years. In allusion to a former debate, in which Mr. Burke had charged him with having turned his coat, he begged to assure him he had not: he had voted for the impeachment by trusting to the right hon. gentleman's assertions that Mr. Hastings had made Hindostan a desert; but time had proved, what the Journals of the House would prove, viz. that the contrary was the fact, and that he had been misled. He begged again to assure the right hon. gentleman that he was no turn-coat, but that he should consider himself to be one, if, after having threatened a minister with an impeachment, and declared that he had the articles in his pocket, he had taken his hat off to that minister, and obsequiously enlisted in his corps, for the purpose of becoming paymaster of the forces; or, if he had maintained a conduct that some called patriotic, but others scrupled not to term rebellious, and had afterwards written a book which gave the lye to all the acts of his life, and all the doctrines he had ever asserted. Mr. Bastard objected to the annihilation of any part of the charges that had been carried up to

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the Lords, and said the same stigma would fall upon Mr. Hastings if they dropped the seventeen last charges, as if they were to drop the whole. The present House knew nothing of any of them, and yet they were now called upon by the managers to drop seventeen, though they knew not whether they were not more important than the three or four preceding. A speedy decision of his trial was the undoubted right of the subject, and by proceeding in opposition to that grand privilege of an Englishman, the House would be proceeding in oppression. With regard to the papers for which he had moved, they would prove that lord Cornwallis and general Meadows had seized the country of the nabob of Arcot, in violation of the most solemn treaties. By the papers it would appear that they had been obliged, in a moment of exigency, to adopt a similar conduct with Mr. Hastings in his transactions in Benares with the Begums and with Cheyt Sing. Mr. Bastard read extracts from a letter from lord Cornwallis, on the subject, urging state necessity as the plea for the measure which, his lordship said, he conceived would be unpopular in England. He repeated, that he meant no reflections on his lordship, or on general Meadows, but to show that there was an analogy between their conduct and that of Mr. Hastings; and that they had deprived a native prince of the sovereignty of his country, in violation of the treaty made by sir A. Campbell in 1787. Mr. Bastard said, he did not conceive it proper that parties of different descriptions in that House should meet for the purpose of oppressing an individual, and that as Mr. Burke had declared in the beginning of the trial, that if it should appear that Mr. Hastings, notwithstanding what he had done in India, had left the people happy and the country in a state of cultivation and fertility, he should think that instead of punishment he merited reward. That fact was established by the resolutions on their journals, and therefore if the right hon. gentleman had acted consistently, he would long since have abandoned the prosecution.

Mr. *Wigley* objected to the manner in which the motion was brought forward: the House had an undoubted right to exhibit articles of impeachment from time to time, and as circumstances might arise to proceed on them or not, new articles might be exhibited even on matter arising out of the defence, and he trusted the House would not lightly part with so valuable a privilege. If the impeachment of Mr. Hastings was to be continued, it might appear that the articles thus struck out, without examination, were the most important; yet the House would be precluded from the prosecution of them. The latter part of the motion also seemed exceptionable; it committed the House to prosecute several charges in the impeachment, without deciding any question on the propriety of them. He submitted to the House that the motion would have been more proper had it been "that this House will demand judgment on the articles on which the managers have closed their evidence," or, "that the House will proceed on the charges respecting contracts, pensions, and allowances." The chancellor of the exchequer had observed, that the question, whether the House would proceed on the articles respecting contracts, pensions, and allowances, or not, was a question of discretion. He agreed it was so, and he trusted the House would exercise a discretion, and be satisfied that Mr. Hastings ought to be impeached before they voted to go on with the impeachment. This was not only the duty, but the right of the House, and of that House alone, for it was well known, that if a man was convicted on an impeachment, no judgment could be pronounced but in their presence, and on their requisition; and if the House of Lords gave judgment, unless on the demand and in the presence of the House of Commons, it would be a breach of privilege. Before the House took up the prosecution of an impeachment, voted by the last House of Commons, they should examine the grounds and evidence on which the impeachment had been voted, and on the evidence he could find, he could not make up his mind to proceed.—The only evidence regularly before the House were the articles and charges on the journals, and the answers of Mr. Hastings. But perhaps he might be told, as it was said on a former occasion, that he might resort to the minutes of the evidence given before the House of Lords; it was not in his power, nor in that of the members of the House of Commons to procure that evidence; and though he might be informed that it was printed by order of the House of Lords, and though an abstract from their Journals was once read in the House to prove it, the right

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hon. gentleman who read it would recollect it was ordered to be printed for the use of the Lords only. Perhaps it might be said, he might have heard the evidence at the trial. He was not in the former parliament till near the close of it; but since he had the honour of a seat in that House, he had frequently attended the trial, and at those times heard no evidence to convict Mr. Hastings. Evidence irrelevant to the articles he often heard offered; and when it was registered, he heard the managers complain of the hardship of their situation, and assert, that if such evidence was not received, they could not proceed in the trial, for they had no other to offer. He might perhaps be directed to resort to the evidence given at that bar. It was not reported on the Journals: he had, it was true, met with a book, he knew not by what authority it was published, but it was sold to him, as having been corrected by a right hon. manager, and published under his inspection; this he had perused with attention, and all that he could gather from it was a renewal of the doctrine in an ancient resolution of the House, not likely to be contended for at this time of day, that an impeachment may be voted upon hearsay. If that doctrine could be supported, the book contained evidence enough, it contained nothing but hearsay, except what was worse, it contained the evidence of those who were actuated by private malice and resentment against Mr. Hastings, and who wreaked their vengeance on him under the mask of public justice. Those who had attended the trial would also recollect how little of the evidence given at that bar, where no oath was required, had been confirmed at the bar of the House of Lords, the witnesses who had spoken so readily in that House, dared not support their testimony by perjury. The charge against Mr. Hastings accused him of oppression, of cruelty to the natives, and other acts by which the country was depopulated, and the British government rendered odious in India. How was this proved? The Journals of the House denied the fact; they stated the country to be flourishing; every person who had arrived from that country said the same; several members of the House in their places had confirmed them; not a single complaint from that country had reached the House: on the contrary, representations in favour of Mr. Hastings, his conduct and government, had been sent to the House from every part of India under his government. These he was entitled to call addresses or petitions to the House in his favour; he had a right to appeal to them; the House had given them an importance! for how had they treated them? They had not rejected them as irrelevant, as matters of no consequence, they had been ordered, not merely to lie on the table, but to be printed for the use of the members. Would that have been the order if they had been thought of no consequence, or authority? —The right hon. mover of the question had entered into a long detail on the time that the impeachment had taken up, and had endeavoured to show that the managers had very little of the three years spent in it, allowed for the trial. Had the trial been necessarily long, and not unnecessarily delayed, Mr. Wigley said, the length would be of no weight in his mind to put an end to it. If the charges against Mr. Hastings required a long trial it must be submitted to, but this had been unnecessarily protracted. The right hon. mover of the question, to excuse the length of the trial, had observed, that in former impeachments each article had contained only a single charge, but in this impeachment, each article was sufficient for an impeachment, for each article contained several distinct accusations, no less than eighteen different charges being comprised in one of them. Mr. Wigley objected to them on that very ground, that circumstance had induced the House to vote many of them. It was an unfair way of bringing them before the House. If an article contained but one fact, a majority of the House must believe the evidence brought to prove it, or the article would be rejected; but if there were a hundred members present, and an article containing one hundred facts should be presented, if each believed one separate fact, and thought Mr. Hastings should be impeached on that, but disbelieved all the rest, on the question whether the article contained matter of impeachment, or not, the House would vote it unanimously; when, if each fact was voted separately, there would be ninety-nine to one against the impeachment.—A learned gentleman (Mr. Erskine) had said, he should expect those who stood up to argue against the expediency of proceeding, to show him that Mr. Hastings was innocent. Mr. Wigley did not agree with him in that; he thought the House should see the

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guilt of Mr. Hastings; they should be satisfied that there was evidence to support the impeachment.—The right hon. gentleman had observed, that the lawyers were not the men directed by the writs of elections to be returned to that House, the writs, he had said, required them to be discreet, to be citizens, but not a word of lawyers; indeed, he seemed to treat them as improper men to have a seat in the House. Mr. Wigley said, he had the honour to follow the profession of the law. He did not quite agree with the right hon. gentleman in this respect, and recollected soon after he came into the House, on a discussion of the qualifications requisite for the most important station in that House, the advantage of a legal education was not forgot.—Mr Wigley said, there were now no managers; the former managers had a natural, but not political existence; he was therefore free to speak of the conduct of managers who existed in a former parliament, without any offence to the individuals personally; but when the first abilities in the kingdom had been employed ten years to find out the crimes of Mr. Hastings, without effect; when so much time had been spent in the trial, and so little had been done, when he found much in Mr. Hastings's conduct to praise, and very little, if any thing, to disapprove, he could not vote the continuance of an impeachment, begun and supported as the present was; and whatever might be the event, he should certainly take an opportunity of collecting the sense of the House on the propriety of continuing the impeachment.

Mr. *Ryder* said, he had never given a vote on any of the proceedings respecting the impeachment, and could therefore view the question with an untainted eye. It was five years, he believed, since the first charge againt Mr. Hastings had been brought forward in that House, and three years since the trial had commenced. He observed, that the object was to prove to opulent guilt and successful oppression, that no time nor power would be able to evade the punishment due to such crimes, and this was necessary, in order to strike a terror to the present, and operate as a warning to future governments. That being clearly the object, let the House consider how the matter stood at present. Three of the charges were gone through, and these three were stated to contain fifty facts; surely, then, sufficient progress had been made for the purpose of example; if the defendant was innocent he might be acquitted, or if guilty, enough had been done to ground punishment upon and prevent others from following the same example. The simple fact was this—a British governor had been on his trial for three years, which was of itself a very severe punishment; what he wished, therefore, was, that the House should pause; and as it was their duty to take the shortest road to speedy and substantial justice, and as every end would be answered by stopping where they were, to call for immediate judgment and proceed no farther. This would strip the impeachment of its terror, and meet the general wish of all parties; he therefore would move, that the latter part of the motion, the exception, be left out.

Mr. *Dundas* objected to the amendment, and contended that the House were bound to consider the original motion as exactly the same as if it came from the managers, who must be supposed to be better judges of what was capable of immediate proof and most necessary to be established, than the House at large. Mr. Hastings, in the defence which he had formerly set up, had said, it was true, that he had done what they had charged him with, but that state necessity was the cause, and must be his justification; it was necessary, to bring on the charge respecting the contracts, pensions, and allowances, in order to prove that it was notorious profusion and extravagance, and not state necessity, that was the cause of Mr. Hastings's acts of violence and oppression. It was material, therefore, to go into that charge, because if the right hon. gentleman opposite, could prove that Mr. Hastings had squandered, or expended more than he ought to have done, then state necessity could not be admitted as a justification of the other part of his conduct. As the managers had declared they could go through the charge in seven days, he thought the House ought not to refuse them so reasonable a proposition.

Colonel *Phipps* supported the amendment; but having voted for the impeachment originally, he said he was bound to support it. He expressed his satisfaction that the House had asserted its rights in the former case; but gave his reasons for thinking there was no occasion to proceed farther than to call for judgment. Great stress had been laid on the right hon. gentleman's declaration, that going through another charge would take only seven

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days; but how could that be ascertained beforehand? If they had only been through three charges in three years, they might be another year at least in getting through the charge respecting contracts; besides, that of all others was the charge most likely, from the variety of proof necessary to establish it, to run into great length. They would have to prove that the contracts had not been publicly exposed to the best bidder; that they had been corruptly given at prices unnecessarily profuse; and a variety of other facts that must be tedious in their investigation. It therefore appeared to him to be advisable to stop where they were, and for that reason he should support the amendment.

Colonel *Macleod* complained of a different motion having been brought forward, than that the House had been taught to expect, and said, that Mr. Hastings was the common theme of praise and admiration throughout India.

Mr. *Jekyll* reprobated the doctrine laid down by Mr. Dundas, and could not help wondering that so monstrous a proposition should come from a gentleman who had received some degree of legal education, though he had thought proper, either from the lucrativeness of the situation, or his own convenience, to quit his profession for the place of treasurer of the navy and other offices. The proposition laid down by him was, that after three separate and distinct charges or bills of indictment had been found and established by proofs, in a great variety of instances, another bill of indictment was to be preferred before the same tribunal, in order to afford an opportunity of proving the facts charged in the former indictments, and to preclude the defendant from the aid of his defence.

Mr. *Taylor* said that his learned friend had accused Mr. Dundas very improperly, of a want of legal knowledge; in his opinion, if the imputation rested any where it was more to be ascribed to his learned friend, than the right hon. gentleman. His learned friend had forgotten that an impeachment was only one indictment produced and acted upon accordingly, that the different articles were as so many counts, upen each of which separate evidence might be given, or the allegations of one count might, at the discretion of the prosecutors be adduced to strengthen and corroborate another, just as the circumstances required. Was this an innovation in theory, and never practised? Certainly the reverse. Every day's experience negatived the very singular doctrine of his learned friend. But to put the matter beyond any doubt, how did the Lords consider it? Certainly in the way in which he had taken the liberty to state it. When the managers pressed to have the articles separately heard and distinctly decided upon, the House of Lords rejected the application, giving as a reason that all the articles were contained in one indictment, and that the prisoner could not be put upon his defence, until the different charges or allegations had been brought forward by the Commons, and the case on the part of the prosecution wholly gone through. The learned gentleman had talked of the injustice of permitting the managers to proceed to the charge of pensions, contracts, and allowances, with a view to cut up the defence of Mr. Hastings, and fix a stronger degree of guilt upon him; it was no uncommon case to pursue the same plan in the inferior criminal courts; but without entering into such an analogy he would maintain, that in the present instance, it was a proceeding founded in reason and justice. What was the defence set up by the friends of Mr. Hastings, and by the man himself, to the principal charges, already brought against him? viz. that he was urged to the commission of those enormous acts from mere state necessity, from the pressure and exigency of the times, and for the safety of the country committed to his care; that his were no personal motives, no private views of profit to himself or those connected with him. Is it not therefore the duty of the managers to prove, by entering into the article of contracts and allowances, that the plea is false in substance! for that at the very time he was enforcing the wants of the company as a reason for his cruelty and oppression, he was wasting the property of his employers by heaping upon his favourites and dependants uncalled-for gratuities, and the most shameful contracts? If this was the case, would not the matter be more satisfactorily proved; would not the conviction be consequently more certain, and the judgment of the Lords more severe, and exemplary? Those who conducted the prosecution, feeling these impressions, would ill discharge their trust, if they did not recommend such a proceeding to the House with all the earnestness in their power; and he thought the House would not act with becoming wisdom and propriety if

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they hesitated a moment in the adoption of it. Mr. Taylor then adverted to what had fallen from Mr. Ryder; he said he had reasoned upon false grounds with respect to the prosecution, and had taken up the argument improperly, as far as it related to the managers; it was true, he had neither blamed nor applauded them, but still he had stated the length of the trial somewhat invidiously, having dwelt strongly upon its continuance for three years, instead of allowing that it had only consumed sixty-five days of sitting. But even if the trial had been longer in its duration, no fault could be imputed to the managers; they had done all in their power to bring the question to a speedy issue. But could they command times and seasons? could they direct, whether the House of Lords should sit seven hours or three hours a day, or what portion of the week should be allotted to the inquiry? Could they regulate the times of adjournment or prorogation? In short, the more the matter was sifted, the more manifest would it appear that they merited no blame: and if any member thought that there was ground for accusing them, now was the time to come forward openly and declare it, but it ought not to be done by side blows and invidious insinuations,

Mr. *Pitt* said, he must be under the necessity of differing from his hon. friend who had moved the amendment for leaving out the concluding paragraph of the motion, as also from his other hon. friend who had seconded it. Since both his hon. friends had on a former night concurred with him in opinion as to the general question, that an impeachment does not abate by dissolution, but absolutely remains in *statu quo*, and that the House was competent to decide whether there should be an end to the proceedings on the impeachment or not; he would not hesitate to declare that there was an inaccuracy in their reasoning on the subject of this night's debate; for this competency must extend to the whole, and not be confined to any part or parts, and thus, then, if the House were limited to the right of calling only for judgment, and if the new members were to confide in the acts of the former House, only as far as they had been given in evidence, the general principle for which the House had successfully contended, would be defeated in fact, and frustrated in its application. He insisted, that it was indispensably necessary to proceed with the remaining charge, touching contracts, pensions, and allowances, not only on the ground of expediency, because the evidence that ought to be produced on this remaining charge, might be intimately connected with and inseparable from the evidence given in the former charges, as also that it might disprove and invalidate the plea of necessity which was urged in Mr. Hasting's defence. The advocates for Mr. Hastings said, that every breach of treaty, and every act of peculation found its justification in the strongest of human pleas, necessity; that such acts were not done with any corrupt motive, or with the slightest view to private emolument, but absolutely for the benefit of the company. Now, any charge that would go to prove either the perversion or the non-existence of this necessity, was not only a matter of right, but of absolute expediency. If it should appear that Mr. Hastings, by a waste of the company's money, had himself created this necessity, or that in consequence of the large sums which lay at his discretion, this necessity had no existence at all, then the plea, so far from being conclusive in his favour, was absolutely nugatory. The duration of the trial had been started as an insuperable objection to its farther progress; but this objection was founded on a false principle, because it estimated the time that the remaining charge would take up from the time that had been employed on the former charges, which was not the case. It stated that the trial had lasted three years; a long period he confessed, and every one would with him regret, that an innocent man should remain during that period, in the suspense and anxiety of accusation; and few, he trusted, would disallow, that to such a man, some indemnification was not due; such a period of time must also be considered as constituting no inconsiderable portion of punishment even to a guilty person. But should the charges preferred against Mr. Hastings, or the principal part of them, be proved, what man would assert, that the punishment he had already suffered, was proportionate to the magnitude of his crimes? Nay, this very argument founded on Mr. Hastings's past sufferings, was one of the most cogent for proceeding on the trial, but certainly not the only one. The cries of public justice and the necessity of public example, were much louder and more urgent than any regard to the circumstances or the feel-

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ings, however unfortunate, of an individual. The House were bound to continue the proceedings in that way which appeared most adequate to the ends of public justice, which ought to be quick, but substantial. The question therefore narrowed itself to this: "whether striking out the only article which it was now proposed to open, would materially affect the issue of the charges already in evidence?" He had attempted to prove that they would. The objection with regard to time was certainly inaccurate, because it was not fair to say, that since the charges had taken up three years, a fourth charge must necessarily take up a proportionate quantity of time; or that because some of the charges contained fifty allegations, another must contain as many more. This argument, drawn from an unfair presumption, which was at best weak in itself, was still weakened by the most positive assurance which had been given by the right hon. mover of the original motion; a learned gentleman had been pleased to bestow a degree of supercilious compassion on his right hon. friend, Mr. Dundas, of which fortunately he did not stand in need. If the learned gentleman did not consider the subjects that might be presented to him, with more precision and attention than he had considered this, he doubted whether he would be able to continue in the profession of the law so lucratively to himself, or to quit it, so beneficially to the public, as his right hon. friend. If the charges preferred against Mr. Hastings were proved, it is allowed that the only plea that remained for him to urge was that of state necessity. On this principle the House could not with any degree of consistency abandon the charge that would directly go to prove that no such necessity ever existed, and of course that the plea was unavailing. The remaining charge, it was urged, did not lie in a narrow compass, and from its nature must take up much time. He allowed it might be long, but he also thought it was much more likely it would be short. Indeed, on this subject the House was in a great measure relieved from conjecture. He had the assurance of the persons the best informed, that if the managers should have the proofs ready as soon as the charge was to be opened, and could also procure strong proofs of gross and flagrant extravagance, the charge would lie in a narrow compass. Suppose, for instance, Mr. Hastings had given 20,000*l.* a year from the revenues of a prince, plundered under the plea of state necessity, to an officer in possession of great and lucrative employments besides, and continued it after that officer had been employed in a very distant part of the country; suppose that out of the revenue of Oude, such an extravagant allowance was given to an officer serving in the Carnatic, and in defiance of the express orders of the company to the contrary, would not every man agree that such an allowance, under such circumstances, was an aggravation of the other flagrant and enormous offences laid to the charge of Mr. Hastings. In entering on such a charge, containing such matter, and fraught with such circumstances, there could reasonably be no danger of delay; but there was much and well-founded apprehension of rendering nugatory all the time and pains that had been spent on the impeachment already, by separating and mutilating the accusation, and allowing a mistaken compassion for an individual to supersede their duty as members of the legislature, and their regard to general justice.

Major *Scott* said: Sir, I came down to the House in the fullest conviction that the question to be proposed for our consideration, would be a question of discretion: that is to say, whether, under all the circumstances of the case, this House would persevere in, or abandon, the impeachment of Mr. Hastings? But, to my astonishment, that motion has been totally given up, and the question first proposed is, that the impeachment should be closed with the article of contracts; upon which an amendment has been moved, to close as the cause now stands; both implying, that the impeachment is to go on; and consequently precluding the true point on which the debate of this night should have turned. Now, Sir, the few words that I shall say, do apply most pointedly to the question of discretion: and I earnestly implore the attention of the House for a few minutes, and most particularly of those members who did not sit in the last parliament. I will not go at length into the mode in which the vast mass of matter, contained in the twenty articles, was passed by the late House, but I will take the article of Benares only, and all the rest are similar to it. That charge, as originally brought into the late House

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was the size of a pamphlet, and contained a very great number of criminal allegations. These were all stated separately by the right hon. mover of that charge in the House (Mr. Fox), who contended, that each allegation was criminal. A very high authority in the House (Mr. Pitt), did, on the other hand, not only defend Mr. Hastings upon all the points, except the last, but he declared that the acts stated to be criminal, were strictly justifiable, and highly meritorious. He merely disapproved of the amount of the fine which Mr. Hastings intended to levy upon Cheyt Sing for his contumacy. The motion, however, being, that there was ground for impeachment in the matter of the article, both sides of the House agreed in the conclusion. It was entrusted to the managers afterwards to frame the article, and they very naturally included every thing which, in their ideas, was criminal. The right hon. gentleman (Mr. Pitt) promised to move amendments: that promise he never performed; so that in fact, no gentleman can say what the late House of Commons conceived to be the criminal parts of the Benares article; but Mr. Hastings was called upon to defend himself, for demanding from Cheyt Sing his quota to the support of the war, though the minister had defended the demand, as strictly consistent with justice. Will this House not pause for a moment? Will they not do what the last House ought to have done? Will they not put a separate question upon each criminal allegation in the Benares articles, before they adopt it as their own, and sanction it with their approbation? I claim it as a right, on the part of Mr. Hastings that this House shall give its sentiments on every allegation in that article. The observations on this single article will apply with equal force to every other article in the impeachment. There was another most material distinction taken by the right hon. gentleman (Mr. Pitt) and other great authorities in this House, at the outset of this business. They stated it to be a fundamental principle, that no act done by Mr. Hastings, and communicated to the king's ministers, and the court of directors, prior to his several parliamentary re-appointments, could be a proper subject of impeachment, such re-appointments being the strongest testimony of parliamentary approbation. Yet, Sir, the managers did include acts done in 1772, amongst these articles, and the late House paid no sort of attention to them, possibly never read them. Much time was fruitlessly spent in going through these points afterwards in Westminster-hall. Are they now to be dropped for ever; and is Mr. Hastings entitled to no reparation for such monstrous injustice? The right hon. gentleman (Mr. Burke) says truly, that infamy must rest somewhere; if the articles are true, it must rest with Mr. Hastings; if false, elsewhere: and the right hon. gentleman asks, if the articles are true or not? I mean not in general to speak with disrespect of the late House; but this I do say, that many of those articles, and all that are material, are false, notoriously and palpably false. Their falsehood is obvious to all England, to all Europe, and to all Asia; nor am I afraid, in support of this broad fact, to meet the united abilities of all the orators in this House; for oratory must fail, when opposed to truth, and to the common sense of mankind. The world will ask, what more shall be required of a British governor, than to preserve the dominion committed to his charge, in a season of great difficulty, danger, and embarrassment, to improve its revenues, to increase the population, to encourage agriculture and commerce: all this Mr. Hastings did, and is, to this moment, notwithstanding the impeachment, universally esteemed in India, which could not possibly be the case, had he been a rapacious peculator, a plunderer, a captain-general of iniquity. But if there is any gentleman who still contends that the articles are true, he must allow that the India minister (Mr. Dundas) has for four years successively presented false accounts to this House, and that false resolutions are entered upon your Journals.—There is no period to the absurdity in which this House will be involved, if it sanctions what has passed in the last parliament. Almost on the very day, that the late House declared Bengal to have been oppressed, ruined, and destroyed by Mr. Hastings, did the India minister open his first budget; in which he affirmed, that it had been in a progressive state of improvement under the British government. He proved his assertion by the evidence of figures. You have, Sir, upon your Journals, an accurate account of the total revenues and resources of the Bengal government, during Mr. Hastings's administration, presented by the India minister himself; you

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may observe their progressive increase; and as they have not since fallen off, it is a proof that he did not strain the country for any temporary purpose. But why do I dwell upon facts that cannot be denied? Mr. Shore, a gentleman of the fairest character, late a member of the supreme council, has fixed it, by his evidence in Westminster-hall, beyond the power of contradiction; he has deposed, upon oath, that the natives are happier under our government than under any other: he saw the increase of agriculture and population, during Mr. Hastings's government, and he has solemnly sworn to the truth of the fact. The natives of all ranks in India have affirmed the same facts that Mr. Shore stated, the India minister has affirmed it, the public accounts prove it, the whole world asserts it, yet the late House passed articles, and the managers made speeches, stating the kingdom of Bengal to be oppressed, ruined, and destroyed. How much longer is the common sense of mankind to be shocked by such absurdity? The right hon. gentleman (Mr. Dundas) talks much of the importance of the articles of impeachment, and the gravity of this prosecution. He voted for all the articles; but I can produce his own signature, in full approbation of those very measures, and those principles, which the articles condemn in the most pointed manner. When he heard of Mr. Hastings's arrangement with the nabob vizier, he signed his approbation of it. In the government of sir John Macpherson, he orders, that the arrangement formed by Mr. Hastings shall be invariably adhered to; and when lord Cornwallis writes, that, excepting his having stationed some additional battalions in Oude, he had nearly adhered to the system established by Mr. Hastings, all he had done being with a view to render it permanent; the right hon gentleman replies, that after an attentive perusal of all the papers upon the subject, he approved the arrangement, and the principles on which it was formed.—I ask the right hon. gentleman, how he can reconcile his conduct to justice? I will answer for him; he did as all the House did; he voted the last thirteen articles, without reading one single line of them. Your Journals will prove, that those articles were all passed four days before they were printed. This act disgraced the last parliament; let me, therefore, implore gentlemen to pause a little, before they give their sanction to such absurdities. In the article that I now hold in my hand, Mr. Hastings is stated to be highly criminal, for putting the whole power of Oude into the hands of "so implacable a tyrant as Hyder Beg Khan." Yet has this minister, enjoying the fullest confidence and support of lord Cornwallis, remained at the head of the system which Mr. Hastings has established, and has regularly paid the subsidy for five years past; and in the last year, when his lordship was in great want of money he wrote to the vizier and Hyder Beg Khan, requesting some payments in advance. Hyder Beg immediately made him a remittance of ten lacks of rupees, and Lord Cornwallis sent him his warmest acknowledgments for such an aid.—Let me ask the House, if it is consistent with its dignity, or with common sense, that this minister of a foreign prince should stand stigmatised on our journals as an implacable tyrant, while a British governor is acknowledging his great attention to our interests, and his general merits? Let me also ask if no reparation is due to Mr. Hastings for the universality of the accusation against him? If the articles be true, he never in his life acted right, and the Indian and the European world is in an error. But without abandoning the truth and importance of charges, which few of us have read, we now mean to give up every thing, except the contracts; and are those articles to remain upon our journals, which those who have read know to be false, and which those who have not read cannot know to be true? Was it a slight matter to call upon Mr. Hastings to defend systems at the bar of a court of justice, which had received the fullest approbation of the king's ministers? Was it no injury to compel him to defend, as if they had been criminal acts, those plans by which he added above two millions annually to the public revenue? Was it nothing, to do all this in the name of the late House, when, in point of fact, the House knew nothing of the matter? I know not whether the oppression to Mr. Hastings, the injury done to the nation, or the disgrace to the House, is to be ranked the first in this part of the impeachment. Surely, Sir, these are points which a regard to your own honour, and justice to Mr. Hastings, require you to examine in the first instance. But now the great charge is a wanton waste of public money for private purposes. Without fatiguing you

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with a detail upon this subject, I do affirm, that the peace establishment formed by the board of control, is above one million sterling a year higher than the peace establishment of any one year of Mr. Hastings's administration.

Mr. *Lushington*, chairman of the court of directors, said, that Bengal had for many years been in a very flourishing state, and was in a progressive state of improvement during all Mr. Hastings's administration. When Mr. Hastings came to the government, the resources were little more than three millions a year; when he left it they were more than five crores, an increase of about two millions a year. The systems established by Mr. Hastings had, he said, been followed by lord Cornwallis, with very little variation.

Mr. *Stanley* said, he had come to the House with the idea that the plain question of—whether it was expedient or inexpedient to continue the impeachment now pending against Mr. Hastings, was alone to have been debated and determined; but, to his surprise, a question of a much more complicated nature, had been moved and seconded; it was not whether the impeachment should be continued or discontinued; but whether the impeachment should be continued to only one specific charge farther, and then the judgment of the Lords to be called for? Surely, this question (unless it was founded on a supposition that the impeachment must, at at all events, be continued, and no discretionary power to be exercised by the House) involved two questions together, by no means similar; and the House, by one vote, were to determine, first, that, the impeachment should continue, and secondly, that the impeachment should be continued to only such a specified length or such a specified charge. He conceived that a question so complicated threw many members into a singular difficulty. Many might now wish to vote for a continuance of the impeachment, and reserve their opinion of the stated time it should still continue, or of what charge or charges should be brought forward, till another discussion on these particular subjects (very different from the general subject of expediency or inexpedieney) had taken place. An amendment to the question had been moved and seconded; but this amendment by no means tended to reduce the question to a fair, uninvolved statement of expediency of inexpediency; for although it proposed to bring to a vote whether the impeachment should not stop in its present stage, and judgment be immediately called for, it did not divide the question; and many might not approve of either the original motion, which specified how the impeachment was to continue, and was so worded as to preclude, if carried, all possible inquiry into the present state of the impeachment, or of the amendment, which, if carried, would stop at once all farther proceedings. A strange alternative those gentlemen were reduced to, who wished the impeachment to continue; as it was evident now, that the fate of the whole question concerning the impeachment would depend on the decisions of the House on the amendment, or on the original motion. But before the question was put, he asked, was it not possible to bring forward, uninvolved, the plain question of expediency; for he would by no means consider this question involved in a late decision of the House, on the subject of right, respecting the continuance of impeachments from one parliament to another The House had certainly not pledged an opinion one way or the other, relating to the present question. This was a new parliament, not bound on pledge by any proceedings of the last, competent to exercise what discretionary power it pleased. He had heard from a right hon. gentleman opposite to him, that the present House should consider the acts of the last, and remember the duties it had bequeathed to its successor with that same reverential awe, which a son owes to the dying mandates of a father. He again expressed his wish to simplify the present question.

Mr. *Jekyll* said, he would move the amendment he understood Mr. Stanley wished for, and immediately moved that after the words in the question, "in consideration of the length of time which has already elapsed tince carrying on the impeachment, depending against Warren Hastings, esq." be added, the words "this House will proceed no further in the said impeachment."

Mr. *Sumner* wished that the question of adjournment might be moved, in order to make the consideration of the amendments proposed, the subject of a separate day's discussion.

The *Speaker* reminded the House, that if the question of adjournment were moved, it would supersede every other motion.

Mr. Sumner thereupon moved, "That

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the House do now adjourn: upon which the House divided:

TELLERS.

YEAS	Mr. Sumner		26
	Mr. Poulett		
NOES	Mr. Grey		231
	Mr. M. A. Taylor		

So it passed in the negative: and the question being put, that the words "it appears to this House to be proper, for the purpose of obtaining substantial justice with as little further delay as possible, to proceed to no other parts of the said impeachment than those on which the managers of the prosecution have already closed their evidence," stand part of the question; the House divided:

TELLERS.

YEAS	Lord North		194
	Mr. Grey		
NOES	Mr. Jekyll		54
	Mr. Bastard		

So it was resolved in the affirmative. Then the first proposed amendment, to leave out the words "excepting only such parts of the said impeachment as relate to contracts, pensions, and allowances," was again proposed. And the question being put, that those words stand part of the question, the House divided:

TELLERS.

YEAS	Mr. Sheridan		161
	Mr. Adam		
NOES	Mr. Sumner		79
	Colonel Phipps		

So it was resolved in the affirmative. The original question was then put and carried, and also a motion for the appointment of managers, when the former were nominated. A message was ordered to be sent to the House of Lords, informing their lordships that the Commons were ready to proceed upon the impeachment.

Law of Libel.] Feb. 21. Mr. *Fox* said, he felt some difficulty in giving notice of two questions relative to law, which he meant to bring forward in the course of the present session, and should wish to have the assistance of the gentlemen of the long robe. He understood that the circuits began next week, and therefore he would thank any gentleman of the learned profession who would let him know when the longest circuit might be expected to be over. He had not quite settled in his own mind in what form he should bring on his questions, but had not the smallest objection to state, that one of them would relate to the conduct of the court of King's-bench in giving judgment and sentence upon libels, and the other to informations in the nature of *quo warranto*. As he was advised at present, he believed the proper mode would be, in one case, to move to refer the question to the consideration of their grand committee for courts of justice, and to move the other in the House. He said, he had thus plainly stated the nature of his two objects, in order that it might not be thought that he had any intention to take the House by surprise.

Mr. Jekyll stated when the northern circuit would end, and referred to Mr. Mitford for information when the western would conclude. Upon which Mr. Fox gave notice for the 6th of April.

Debate in the Commons on the Catholic Dissenters Relief Bill.] Mr. *Mitford* rose, in conformity to the notice he had given, to move for leave to bring in a bill for the relief of persons calling themselves protesting Dissenting Catholics, under certain conditions and restrictions. He lamented that it had fallen to the lot of a person so incapable of doing the subject justice, as he confessed himself to be, to bring before the House a motion of such importance: but as the duty had been pressed upon him, he would endeavour to discharge it as well as his abilities would allow, and he trusted he should be favoured with the indulgence of the House. Having thus bespoke their favourable attention, Mr. Mitford proceeded to open the grounds on which he rested his motion. He said, it was well known there was great severity in the laws now subsisting against persons professing the Roman Catholic religion, but the extent of that severity was not equally known. In a book which was in almost every gentleman's hands, he meant Burn's Ecclesiastical Law, no less than seventy pages were occupied with an enumeration of the penal statutes still in force against Roman Catholics, and extracts from most of those statutes were also to be seen in Burn's Justice. The present reign was, Mr. Mitford said, the only one (the short reign of James 2nd excepted) since the reign of Elizabeth in which some additional severity against Roman Catholics had not been put upon the statute book; and many of the most severe of those acts were in an especial manner directed against the Roman Ca-

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tholic clergy. He enumerated a variety of these statutes to show that Papist priests were guilty of high treason, and would suffer death for offences in their nature trivial, such as persuading others to be of the Roman Catholic religion, &c. &c. After going through a list of these sanguinary laws against the Roman Catholic clergy, he observed upon the cruelty and inhumanity of persecuting men for acting according to their consciences, and professing a religion which they had received from their ancestors. He next stated the hardships under which the Roman Catholic laity were placed, declaring that although the 18th of the present king had given them some relief, it by no means went far enough. He recited the penalties to which the lay Catholics were liable for hearing mass, for not going to church, and for various other offences; and after a circumstantial detail on this part of his subject, reminded the House that at the time these very severe laws were commenced, queen Elizabeth had been excommunicated by the pope, and her subjects absolved from their allegiance; that therefore the laws against Roman Catholics were dictated with a spirit of resentment to which their severity was chiefly to be ascribed. He descanted on the supremacy of the pope, which had, he said, originally been held to be merely spiritual, but that it had afterwards enabled the pope to interfere in temporal affairs: that Henry 8th took away this spiritual crown from the head of the pope, and placed it on his own. After commenting on this and other relative facts, and stating the various oaths of supremacy that had from time to time been devised, Mr. Mitford said, the relief that he should propose for the protesting Roman Catholics, would be a bill similar to that which had passed in Ireland for the relief of the Roman Catholics there some years since; and as no ill-consequences had been found to result from it in a country where the Roman Catholics were so much more numerous than they were in this, he should hope the House would see no impropriety in the proposition. He reminded the House of the indulgence that had of late years been shown to protestants in Roman Catholic countries, and particularly in France, by an edict of the present king long before the late revolution; he could not therefore imagine that the House would be less liberal to those who were known and acknowledged to be as loyal subjects, and as faithfully attached to the sovereign on the throne and the government of the country as subjects of any other description whatever. He concluded with moving, "That leave be given to bring in a bill to relieve, upon conditions and under restrictions, persons called protesting Catholic dissenters, from certain penalties and disabilities to which papists, or persons professing the Popish religion, are by law subject."

The *Speaker* stated from the chair, that according to the standing order of the House no question could be put affecting the religion of the country, before it had been referred to a committee of the whole House, the next motion therefore must be "That the said motion be referred to the consideration of a committee of the whole House."

Mr. *Windham* rose to second the motion, and began with declaring, that if the learned gentleman who had made the motion, had felt it necessary to apologise for its having fallen upon him to bring it forward, it was much more incumbeat upon him (Mr. W.) to lament that it had been put into such weak hands as his to second; that being the case, however, he said he would not attempt to go at large into the subject, but would speak only simply and shortly upon a question which the mere dictates of humanity and justice would, he trusted, sufficiently impress upon the minds of all present. He said, it appeared to him that there were but two principles that could justify laws of coercion, and penalty upon persons on account of their religious opinion: the one was, on the ground that their opinions were false and erroneous, and of ill consequence to their future salvation, and that therefore for their sakes it was necessary to extirpate such opinions and prevent their spreading; the other was, that their principles arising from their religious opinions were calculated to make them bad citizens, and dangerous subjects, and therefore the safety of the state required that they should be made the objects of very severe and harsh laws. He showed the difference of acting upon these two principles; in the one sense, he said, the act he did might properly be termed persecution; in the other it was a very different thing. In the sense of the first of these principles persecution seemed so exploded, that it was to be considered as entirely out of the world. In justification of the other principle, it

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had been long the language that such laws were necessary to guard against the dangerous practices of the Roman Catholics towards the subversion of the government, and the introduction of arbitrary power; but however much they might like to charge those practices on the Roman Catholics, he did not believe that history would bear them out in the fact. It might be said, that the Roman Catholics had shown more of tyranny and oppression than we had; but then it ought to be considered, that power had been longer in their hands than in ours. Mr. Windham remarked that there were persons of no mean authority, who contended that religious opinion ought not to exclude men from civil offices, and they founded a good deal of their argument on the principle of the unlawfulness of religious establishments. He here adverted to the great extent to which Mr. Fox had carried this principle, in his argument on the repeal of the test act, when by the force of his genius he had placed it in a very striking point of view. He declared that it had nevertheless had no effect on those who had made up their minds on the other side of the question. For his part, he was not one of those who did not think it the duty of a good government to look to the religious prejudices of the subjects; he therefore could not agree with his right hon. friend to the extent that he had carried his argument, but nine times out of ten he could agree to the same consequences for different reasons. His idea was, that no more could be justified against Roman Catholics than the state absolutely required, nor did he see the difference between them and dissenters of other descriptions. They did not ask to be admitted to places of power and trust, but to live in a free and enlightened country, exempted from the severe penalties imposed by laws, which were by connivance evaded, and which for that very reason ought not to be suffered to disgrace the statute book. Mr. Windham reasoned upon the degree of danger that was to be dreaded from the Roman Catholics, and said, that in all cases of danger there were two things to be considered, viz. the will of those from whom danger was apprehended, and the power they possessed to execute, whatever might be thought it was their will to execute if they could. In this point of view did the Catholics appear formidable? Let them look at the general state of Roman Catholic countries throughout Europe. Did any man at that day dread the great power of the pope? In countries naturally subject to him, he did not fill men's minds with that idea of the plenitude of his power, that would induce an apprehension that it would break its bounds, and rush through all Europe. In fact, it was now considered as a mere spectre, fit to frighten in the dark, but which vanished before the sight of reason and of knowledge; and therefore it was in the last degree absurd to talk of dreading danger from popery, under the present circumstances. Mr. Windham took notice of the opinion that had formerly obtained, that a Roman Catholic's taking an oath was of no avail, because the pope would grant him a dispensation, and absolve him from it. He showed the folly and fallacy of this way of thinking, by reminding the House that a Catholic peer would not take his seat in the House of Lords, when he might do it by taking an oath, but his conscience would not permit him to do it. He also mentioned the variety of occasions on which Catholics were believed on their oaths in other cases, and said, the pope could grant a dispensation to Roman Catholics, but he could not absolve them from custom, from their feelings and a sense of honour, from the blood rushing to their face, and from blushing and trembling with shame at the idea of taking an oath to establish a vile falsehood. Having already said more than he meant to say, and more than was necessary upon the subject, he would therefore conclude with giving his most hearty assent to the motion.

Mr. *Stanley* (member for Lancashire) rose to declare the satisfaction he felt, that the motion had been brought forward, and his hopes that the rigour of our laws against Roman Catholics would no longer stain the national character. As it was his lot to live in a part of the country where Roman Catholics were numerous, he had been a witness of their conduct for many years, and could take upon him to say, that more loyal subjects, or persons who wished better to the family on the throne, and to the quiet and safety of the government, did not exist. This declaration he thought it his duty to make, as a friend to the civil and religious rights of mankind.

Mr. *Pitt* said, he trusted the House had heard enough to induce them to be

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unanimous in receiving the bill, and giving it their most serious consideration; but as the Speaker had very properly reminded them that the question must be referred to the consideration of a committee of the whole House, which must be on a different day from which it had been proposed, he thought it irregular to do more than to concur unanimously in taking that step.

Mr. *Fox* said, he felt it absolutely necessary to say a word or two, to show that there was not that unanimity on the subject which the right hon. gentleman anticipated. The objection, however, which he had to the bill proposed, was not in regard to what it did go to, but to what it did not go to, for in his opinion it by no means went far enough. His hon. friend who had spoken second in the debate, had gone over the general grounds of toleration: his own ideas upon the subject were well known; he differed from his hon. friend in several of the principles that he had laid down. His sentiment was, that the state had no right to inquire into the opinions of people either political or religious; in his mind they had a right only to take cognizance of their actions. He would contend that the Christian religion was not adapted to ours, or to any form of government, but to all; but that the religious establishment of any country was to be governed not so much with regard to the purity of the precepts and truth of a religion, as with a view to that sort of religion which was most likely to inculcate morality and religion in the minds of the majority of its inhabitants; and this opinion was sanctioned by the statutes which had passed, making one sort of religion the establishment of the north division of the kingdom, and another sort of religion the establishment of the south. His hon. friend had declared, that he did not agree with him in his argument on the repeal of the test act, but that in nine cases out of ten he could agree in the consequences that he (Mr. Fox) had inferred from his argument, though from a different reason, and that he could undertake to sustain those consequences. Mr. Fox said, there was no rule so general to which there might not be an exception; but he thought he was warranted to maintain that he was right, and had laid down the rule correctly, because it was fair to say that the nine cases made the rule and that the tenth was the exception. The learned opener had very ably, and, he believed, very correctly, exhibited a list of those sanguinary horrible laws which were a disgrace to our statute books. Mr. Fox said, he was for repealing those bloody laws, not to any persons exclusively, but to the Roman Catholics of every description, let them protest or not. He declared, he could not give his vote for sending the motion to a committee without its being made general, because there was no set of men, who on account of their religious principles ought to be subject to be tried for high treason, and to incur the penalty of death. Having said so much of those Roman Catholics who did not protest, Mr. Fox declared, he could not agree with the provisions of the bill for those who did protest; because, if the protestors were sincere in their protestations, they were as good subjects as any who sat in that House. He would ask, upon what principle was a Catholic peer not to enter the House of Lords, or a Catholic gentleman not to enter the House of Commons, but upon the principle that what they protested against was imputed to them? Mr. Fox stated, that such persecution and oppression upon the general ground of religious opinion, prevailed in no country but ours. Throughout the king of Prussia's dominions universal toleration obtained. In the United States of Holland there was universal toleration; and he was sure in France there was universal toleration; so that in four great empires, all of different constitutions, universal toleration prevailed. What could be the reason of this? Would it be said that Prussia was too little monarchical for a monarchy, that Holland was too little aristocratical for an aristocracy, or that liberty was not sufficiently extended to satisfy the friends of freedom in France or in America? And yet though toleration was given full scope to in a monarchical and an aristocratical government, and also in two democracies under our constitution, boasting of its superior excellence over each of the three forms of government, toleration was to be narrowed, and confined in shackles disgraceful to humanity! Mr. Fox reprobated the idea, and though he declared he was glad the bill was proposed, as he was so much in love with toleration, that he would sooner accept the bill than reject it, if it was all the toleration that could be had, and was to be considered as the best compromise that could be made, yet he could not but

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think such a compromise shameful in the highest degree. When the proper time came, he should move to leave the word "protesting" out of the title of the bill, and when it should arrive at a committee, he would move some amendments, though he would not divide the committee if he should find their sense was against him.

Mr. *Pitt* said, he was sorry to have occasion to say a single word after having spoken already, but if he was ever so disposed to create a debate, that was not the moment to do so, after it had been known, that the question must be referred to the consideration of a committee of the whole House. As far as a general wish that the bill should be introduced and favourably received, he cordially concurred, and his reason for thinking it would be unanimously agreed to, was on very different grounds from those stated by the hon. seconder, with whose principles as opened in his speech, he could not agree; and much less could he adopt the principles stated by the right hon. gentleman who spoke last, which had been refuted when the motion for the repeal of the test act had been negatived by so large a majority of that House in the last session of the last parliament. He had himself at that time stated the grounds of his sentiments on the subject, to every one of which he most firmly adhered.

The House was then moved, that the standing order of the House, of the 30th of April, 1772, "that no bill relating to religion, or the alteration of the laws concerning religion, be brought into this House, until the proposition shall have been first considered in a committee of the whole House, and agreed unto by the House," might be read. And the same being read accordingly, it was ordered, that the said motion be referred to the consideration of a committee of the whole House, on the 1st of March.

Corn Regulation Bill.] Feb. 22. On the motion for going into a committee on this bill,

Lord *Sheffield* wished to say a few words previous to the bill's going to a committee. He seriously believed that the bill then before the House, was not inferior in importance to any whatever. If a bad principle was adopted, the consequence must be of a very serious nature. He was sorry to say, an extremely bad principle ran through the bill, exclusive of many very objectionable parts of the detail. The intention of the bill was, to encourage agriculture, and guard against scarcity: but the tenour of it was such as had a manifest tendency, in his opinion, to discourage agriculture, and make the country dependent on foreign countries for a supply of grain. He did not mean to impute the whole blame to the framers of the present bill; far less did he mean to censure the present more than former ministers. The present minister had placed the business in those hands which appeared to him the most proper to prepare it for parliament; perhaps the only hands he could employ. Yet, he flattered himself, the minister was not so attached to the whole of the bill, but that he would attend with candour to the suggestions of those who were incapable of mixing a party spirit in a matter of this kind. It was not a ministerial question, yet it was a question worthy the greatest statesman. It was of the utmost consequence to the landed interest. It concerned every individual in the island. He then said, that neither the framers of the present bill, nor the minister, were answerable for the revolution which took place eighteen years ago in the corn laws. It was then that we departed from the old spirit of those laws, which originally were intended solely and entirely for the encouragement of tillage, without any view to other commerce, than that of getting rid of our surplus corn. To keep down the price of corn, by facilitating the import of foreign corn, and by checking the export of our own, seemed to be the object of the act of 1773, and it was done by opening the ports to importation, and shutting them to exportation, at considerably lower prices than were thought reasonable above one hundred years before. The mischievous consequences to tillage must be obvious to every man. The framers of the present bill were principally blamable for adopting the pernicious principles of that act, at the moment that they represented the lamentable change that had taken place since that time in the corn trade. However, as there were few who would not admit that some corn laws were necessary, the outline of the present bill might be taken; and, as the principle of it depended on the prices at which the ports were to be open and shut, and as that principle might be altered in the committee, and certain

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clauses omitted, although he disapproved of the present principle, he did not object to going into a committee.

The House then went into the committee.

King's Message respecting Quebec.] Feb. 25. Mr. *Pitt* presented the following Message from his majesty:

"GEORGE *R.*

"His majesty thinks it proper to acquaint the House of Commons, that it appears to his majesty, that it would be for the benefit of his majesty's subjects in his province of Quebec, that the same should be divided into two separate provinces, to be called the province of Upper Canada, and the province of Lower Canada; and that it is accordingly his majesty's intention so to divide the same, whenever his majesty shall be enabled by act of parliament to establish the necessary regulations for the government of the said provinces. His majesty therefore recommends this object to the consideration of this House.

"His majesty also recommends it to this House, to consider of such provisions as may be necessary to enable his majesty to make a permanent appropriation of lands in the said provinces, for the support and maintenance of a Protestant clergy within the same, in proportion to such lands as have been already granted within the same by his majesty; and it is his majesty's desire, that such provision may be made, with respect to all future grants of land within the said provinces respectively, as may best conduce to the same object, in proportion to such increase as may happen in the population and cultivation of the said provinces; and for this purpose his majesty consents, that such provisions or regulations may be made by this House, respecting all future grants of land to be made by his majesty within the said provinces, as this House shall think fit. G. R."

The said Message was ordered to be taken into consideration on Wednesday.

Debate in the Commons on the War in India with Tippoo Sultan.] Feb. 28. Mr. *Hippisley* moved, That the 35th clause of the act of the 24th of his present majesty, might be read, and the same was read accordingly, viz. "And whereas to pursue schemes of conquest and extension of dominion in India, are measures repugnant to the wish, the honour, and policy of this nation: be it therefore further enacted, by the authority aforesaid, That it shall not be lawful for the governor-general and council of Fort William aforesaid, without the express command and authority of the said court of directors, or of the secret committee of the said court of directors, in any case (except where hostilities have actually been commenced, or preparations actually made for the commencement of hostilities against the British nation in India, or against some of the princes or states dependant thereon, or whose territories the said united company shall be at such time engaged by any subsisting treaty to defend or guaranty), either to declare war or commence hostilities or enter into any treaty for making war, against any of the country princes or states in India, or any treaty for guarantying the possessions of any country princes or states; and that in such case it shall not be lawful for the said governor general and council to declare war or commence hostilities, or enter into any treaty for making war, against any other prince or state, than such as shall be actually committing hostilities, or making preparations as aforesaid, or to make such treaty for guarantying the possessions of any prince or state, but upon the consideration of such prince or state actually engaging to assist the company against such hostilities commenced, or preparations made as aforesaid; and in all cases where hostilities shall be commenced or treaty made, the said governor-general and council shall by the most expeditious means they can devise, communicate the same unto the said court of directors together with a full state of the information and intelligence upon which they shall have commenced such hostilities, or made such treaties, and their motives and reasons for the same at large."—Mr. Hippisley then moved, "That the 1st, 2d, 3d, 4th, 5th, 23d, and 44th resolutions of the House of Commons, on the 15th of April, 1782, originally moved by Mr. Dundas, might be read;" and the same were read accordingly. *

The fundamental principles of parliament being expressly declared and established by these documents, Mr. Hippisly next read the following extracts from the records of the East India company:

"Governor and council of Fort St. George;—" Aug. 7, 1770. The Mah-

* See Vol. xxii, p. 1292.

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rattas and Hyder are engaged in war. The Mahrattas we esteem the most dangerous and formidable power in India."

"March 20, 1771. Is there a man who knows any thing of Mahratta faith and Mahratta principles, that will doubt of the part they would choose, or suspect them of one scruple of conscience?"

"April 18, 1771. We have repeatedly expressed our opinion very clearly and fully against an offensive alliance with the Mahrattas. In this we are justified by the repeated sentiments of the court of directors for several years past."

"Court of directors. — May 13, 1768. It is with the utmost concern we find the victory you have gained tends to involve us still farther in this chaos of treaties and engagements. That you should have recourse to the Mahrattas for assistance, is still more alarming. We fear all the barriers of the Mahratta power will be broken down."

"June 30, 1769. Upon principles of policy we wish for a peace with Hyder. For our policy is to avoid every thing that tends to an increase of the Mahratta power, which is evidently the misfortune of this war; for you are reduced to the necessity of being yourselves the proposers of new provinces, to be added to the dominion of the Mahrattas, already possessed of half the Mogul empire!—They will make the most use they can of the broils of others. It is by this they have arrived to their present degree of power. Our best policy is to check their growth by every opportunity, instead of lending ourselves to their aggrandisement, which we do as often as we engage in wars with the few remaining chiefs in India yet capable of coping with them."

"March 23, 1770. The Mahrattas and Hyder, you say, are at war. It is undoubtedly our interest to see the power of the Mahrattas, if not both the contending parties weakened, but by no means to interfere. Every Mahratta that fell in the contest may be considered as one of our enemies slain."

"Governor and council of Fort St. George, in continuation. — April 18, 1771. The danger of an alliance with the Mahrattas, or any measure which may tend to increase their power, are clearly expressed in the foregoing extracts. It is evident that their operations are not merely for the purpose of collecting the Chout, but their views are to conquer the whole Peninsula. If we make an appearance of joining the Mahrattas against Hyder (the only power capable of making any opposition to them) the reduction of the Mysore country to the Mahrattta yoke will be accelerated, if not the immediate consequence."

"May 10, 1770. The idea of binding the Mahrattas, by the ties of gratitude and honour, we believe never yet entered into the imagination of any politician in India, except the Nabob and his majesty's minister. We readily allow, and are but too well convinced, that the power of the Mahrattas is much to be dreaded, and that nothing but the opposition they meet with in the reduction of Mysore can hinder them from over-running the Payen Ghaut; but their only motive for desiring our assistance is, that they may complete the reduction of Mysore, by the capture of Syringapatam and Bangalour, and it will be difficult to accomplish it without the aid of some European force. Shall we then assist in the removal of the only bar to the invasion of the Carnatic? In aggrandizing their power already too great, in accelerating the ruin of Hyder, who at present stands as a skreen between us and them, and expose the safety of the Carnatic to their mercy, on the weak hope, that their gratitude and honour will restrain them from completing the conquest of the Peninsula, by the addition of the Payen Ghaut to their acquisition of Mysore. Let us for a moment adopt the convenient doctrine of political necessity, and put the treaty with Hyder out of the question. The Mahrattas have obtained decisive advantages against the Jauts and Rohillas, and possessed themselves of the greatest part of the countries dependant on those tribes. They are in actual possession of Delhi, masters of the person of the king's son; and have invited the Mogul himself, with professions of great attachment, to take possession of the throne of his ancestors.—The aim of the Mahratta government has been for some time at the conquest of all Hindostan. All their operations, since Maderoo's accession, have been manifestly and uniformly directed to that end. It is a natural policy to deprive us of the influence of the king's name with his person. Is this a juncture for us to strengthen the hands of the Mahrattas, who want but our assistanse to complete the reduction of both the Carnatics; who are only prevented by the opposition of Mysore from uniting all their efforts and pouring all the

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numerous forces of their empire on that part of the company's possessions on which their very being depends? Can we, the servants of the company, in opposition to their nearest interests and in defiance of their peremptory commands, assent to such a proposition? Can his majesty's minister persist in so fatal a counsel? Yes, for the Nabob has told him, that the peace of the Carnatic (which is the object of his mission) depends on our arming them (the Mahrattas) with the most effectual means of invading it by assisting in the destruction of Hyder Ally."

"Governor and council of Fort St. George to sir J. Lindsay.—29th May, 1771. Maderoo (the Mahratta) while he was negociating with the nabob of the Carnatic, touching a union, united with the subah in an intended invasion of the Carnatic. The claim of the Mahrattas on the Carnatic for the Chout has been asserted whenever it was convenient to them, and twice of late years it has been compromised with them. We believe the Mahrattas had rather have our assistance now than the Chout, because by our assistance they hope to subdue Hyder Ally, and that done, what shall prevent them from getting the Chout, and probably the Carnatic itself."

"Sir J. Lindsay to the governor and council of Fort St. George.—12th June, 1771. The whole of the nizam's conduct, added to his natural character, make him but a very precarious friend.—The subahdar of the Dekan is but a very precarious friend, and has shown his disposition sufficiently to suspect that he will take the first opportunity to break with the company."

"Governor and council of Fort St. George's Observations on sir J. L.'s letter of the 12th of June.—We look on the nizam, not as a precarious friend, but as a secret enemy, both to the company and to the nabob."

"Governor and council of Fort St. George to sir R. Harland.—Dec. 23, 1771. There is not a power in India, we believe, that doubts of their (Mahrattas) project to subjugate the whole Peninsula. The company, jealous of their growing power, have persisted for many years uniformly in recommending to avoid whatever might tend to its increase."

"Court of directors.—April 5, 1768. We are very much alarmed to find your treaties and negociations have produced effects so contrary to your expectations, and which threaten such dangerous consequences. It confirms us in the opinion we have expressed in our several letters, of the danger of extending our possessions and of alliances and engagements with the country powers. The treachery of the subah's conduct frees you from any engagements you have entered into with him."

"Governor and council of Fort St. George.—Dec. 5, 1771. There is no point has been more attentively discussed by the several presidencies than that now before us, and no one in which we have more clearly and expressly concurred in opinion. We could never, therefore, be justified in an alliance with the Mahrattas, in direct opposition to the sentiments of the other presidencies, and after a clear and manifest conviction of the danger of such a measure.—No man can doubt but the views of the Mahrattas evidently tend to the subjection of all India. Their purposes would be answered in several ways, if we could be prevailed on to send the company's troops to their assistance; it would ensure to them the conquest of the Mysore country. If we once join them, we must not expect our labour to end with the reduction of Mysore; we must follow them wherever they please to carry us, or fight our way back through them: and thus our strength being wasted in making conquests, and acquiring wealth and strength for them, what shall afterwards give protection to the Carnatic?—The nabob will answer it in two words, and the late plenipotentiary would echo back his reply 'Mahratta faith.' Of all the faithless powers on earth, the Mahratta is the most faithless: and shall we submit our necks to such a yoke? Hyder Ally was the power in the South best able to withstand their efforts, and oppose their designs; the reduction of him, therefore, they looked upon as a necessary step to their views of universal conquest. The Dekan has but little power, and would become an easy prey to them. We have, in our deliberations on this subject, frequently declared it as our opinion, that the supporting of Hyder Ally, as a barrier to the Mahratta power, would tend the most effectually to secure the peace and tranquillity of this province."

Mr. *Hippisley* then said, that it was with extreme difficulty he had been able to accomplish even this part of the business, which he had votuntarily under-

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taken, but to which, from extreme ill health, he now found himself utterly unequal; but he lamented his own immediate misfortune the less on this occasion as he was sure the public service would not suffer by it. The office and duty which he found himself incapable of performing, would devolve into better hands. He was sure that an hon. friend near him would give the House every necessary explanation, and do justice to the subject. To his care, therefore, he should entirely leave it, and deliver to him the several motions, which he had intended to lay before the House.

Mr. *Francis* said, that he should not decline the task, unavoidably, but very unfortunately, imposed upon him; at the same time he must represent to the House, what was strictly and literally true, that he was unprepared for the situation in which he now found himself. He had not foreseen that any thing more would have been expected of him, but to second the motions, and support the statements and arguments of his hon. friend, or, at the utmost, to supply what Mr. Hippisley might have inadvertently omitted. In these circumstances, he thought he had a claim to some allowance; he hoped, at least, that he should be heard with indulgence. He then said, —I am too well acquainted with the temper of the House, and indeed with the disposition of the nation at large, in respect to Indian questions, to think of exciting their attention to the present subject, by affirming generally, that it is of very great importance. The proposition would be readily agreed to on all sides; it would be admitted without dispute, and as soon as it was admitted, that moment it would be discarded. Neither shall I attempt to engage your attention, by asserting that the subject is specially important to the well-being of the East India company. I know by experience with what facility that assertion would be granted, with how much candour it would be acknowledged, and with what philosophical indifference it would be instantly forgotten; nor indeed do I myself think it quite true. With respect to the transactions before us, the India company is in effect a dead body; war and peace in India are to them little more than a posthumous question. In the conduct of their own affairs, they have no discretion; in the event, they have no concern. They are beyond the reach of all human calamity. But assuredly the day will come, when, if not to your sorrow, you will find it to your cost, that they are alive again; when they will rise and appear at your bar, like a corpse full of vermin, with their debts and distresses in perfect life and activity, to be paid and relieved at the expense of the nation. Least of all, Sir, shall I attempt to interest either your prudence or your passions, by urging you to believe, that the fate of India is at stake; that provinces and kingdoms in that distant region are likely to be laid waste; that thousands of our innocent fellow creatures must perish in this quarrel; nay that, in any possible case but that of instant and complete success, your own governments there are likely to be reduced to the extremity of distress. I am too well acquainted with the disposition of this House, and of this country to expect that objects, so remote as you conceive these to be from your own immediate interests, should be thought worthy of your care. Of what consequence is the ruin of India to us? Our island is safe. The mischief cannot reach us; we can never be involved in it.

On that question, however, I am at issue with this House and with the nation; on that question I expect to be attended to, because I know you love yourselves. This war, I affirm, can no way be supported, no, not even at the outset, but by men and money from England. The truth of this assertion is brought home to you by authority, which you cannot dispute; by evidence, which you cannot resist. I shall prove to you that India does not possess the means of supporting the war a single hour, but by incurring debts, which must be paid by England. If this be true, and if, as I shall show you, the expenses of little more than half a campaign are already enormous; that in their nature they are incapable of limitation: need I call upon the nation, need I call upon you, who are the guardians of the public property, the only thing the public cares for, to consider well the causes and the consequences of this war? You deceive yourselves, if you think that this is nothing but an Indian question. Loaded as we are with burthens; sinking under taxation; when the heart of the country is gone; when its spirit is so subdued, that, for the sake of securing a rigorous exaction of a falling revenue, we submit to the inspection and control of the officers of government over our domestic

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liberty, over the most indifferent actions in private economy, how will the people endure to be taxed, as they must be, for the support of a war in India? Compared to which, if it should be extended to any considerable length, a war with Spain would be a blessing; a war in Germany, or even in America, would hardly be a calamity. This is the real subject of the debate. I shall deliver my opinion of it fully and freely, without respect of persons, but without intended disrespect to any man. I have no personal interest in the question, beyond that which belongs to every member of the community. Yet while I make that declaration, I cannot but feel that I am submitting to some diminution of my right as a member of parliament, to some invasion of the constitutional freedom of debate in this House; as if a preface or apology were necessary to shelter a general opinion upon a public measure, from the imputation of a personal reflection. But I know it to be necessary; for such are the times we live in. Personal character is no way concerned in the defence or condemnation of the present war. We are to judge of actions, not of persons; and surely I have a right to contend that, as no general imputation of misconduct can impeach the propriety of a particular act, so no opinion of private character, however honourable, should be suffered to be stated, much less to be interposed, for the protection of a measure that ought to be condemned. If you mean to form a sound, comprehensive judgment of the merits of this war, you must allow me, for a moment, to carry you back to your principles. Remember, then, what you have so often heard from others, what you have so often said yourselves, that a governor who makes war in India, when war can be avoided, not only violates the general trust and duty of his office, but acts in the face of positive authority, and even in defiance of legal prohibition. Since the period, at which our condition in India, delivered from the fluctuations of enterprise and adventure, had settled into a solid territorial establishment, the wisdom of this country, and of every power and person concerned in the conduct of the India company's affairs, directors, proprietors, and ministers of the Crown, under every administration, have held but one language to our governors abroad—"We positively forbid you to make offensive wars, or to engage in alliances which may lead you into such wars, under any pretence whatsoever. All we desire is, to preserve what we possess; we disclaim and prohibit every farther acquisition of territory, not only by conquest but by any other means." When it appeared that these injunctions were ineffectual, and that pretences were perpetually set up to elude or disobey them, the House of Commons, in the year 1782, at the special instance of the right hon. gentleman opposite (Mr. Dundas) did that which we never did before. We ratified a code of political laws, drawn up by that gentleman, for the government of India, which had no other essential object but the prohibition of war and conquest, and the permanent security of peace. Even these parliamentary declarations were supposed to be insufficient. In two years afterwards, the legislature itself was called upon to declare, and did declare, "that to pursue schemes of conquest and extension of dominion in India, were measures repugnant to the wish, the honour, and the policy of this nation." Did you mean this for a real, effective, substantial instruction, to be received without cavil, to be obeyed without equivocation; or did you mean nothing but to furnish your governors with a problem for dispute, with a metaphysical proposition, to be debated and whittled away to nothing by cunning sophistry, and logical distinctions? When this clause, with the exceptions attached to it, was originally proposed, I stated my opinion of it to the House in the following terms: "I am ready to admit that the clause in question does all that can be done by mere legislative prohibition, to put a stop to such measures in future; yet I very much fear, that the general rule will be defeated by the exception that attends it. The governor-general and council are not to make war, or to commence hostilities against any of the country powers, unless such powers shall be actually making preparations for the commencement of hostilities against us or our allies. I beg leave to assure the House that, whenever the governor-general and council are disposed to make war upon their neighbours, they can at all times fabricate a case to suit their purpose, and send home a mass of incontrovertible evidence to support it." My opinion was, and is, that when parliament found it necessary to do, in the instance of India, what it had never done in any

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other, to limit the executive power by a legislative declaration on the subject of war and peace, it should have left its prohibition absolute, like one of the commandments, "Thou shalt do no murder." It should not have supposed, much less should it have stated, sundry cases, of exception to its own fundamental rule. The burthen of a special justification on the case should have been thrown upon the parties. Have they sufficient cause? —let them show it if they can. *Primâ facie*, the presumption of breach of trust and duty lies against the governor who makes war. The utmost he can do, is to justify against it. By specifying the exceptions in the body of the prohibition, you have taught your governors how to follow your words, while they defeat your intention. On the present occasion, I see nothing wanting, except a little ingenuity. The evidence is not fabricated, as it might have been, to support the case. These authorities, and every other that I am acquainted with on the subject, act uniformly together, to establish and to perpetuate, if possible, a pacific system of government in India. Let us see in what manner measures have been adapted to principles. I cannot trust entirely to the professions of men in office; their actions are to me the only test of their sincerity.

Surely, Sir, it ought to be unnecessary for me to declare in this place, that nothing can be more foreign from my opinion and intention, than a wish to lessen the honours due to the military profession. I have the happiness to be connected in friendship with many who belong to it, and among these there are persons, whom in this world I esteem and respect the most. But I will not depart so widely from public principles, from what I take to be constitutional doctrine in this country, and from the plain and obvious dictates of reason, as to concur in an opinion practically professed by the present administration, that none but military men are proper to be trusted with the civil government of our provinces abroad, or that the civil and military power in those governments ought, in constitutional prudence, to be united in the same hand. This is no reflection on the character of any individual. Your system is pacific, and you appoint soldiers to keep the peace. You place a general officer over the immense civil as well as military government of Bengal; a general officer over the Carnatic; a general officer at Bombay. Now, Sir, with every allowance for exceptions of heroic virtue, which of course must be rare virtue, is it in any rational theory to be expected, that the preservation of peace shall be the favourite passion, the predominant principle of men, educated in a camp, and whose education must have failed, if it has not given a warlike bent to their disposition? In the execution of military measures, the gallant spirit that animates the profession of arms, should be trusted without reserve; but, in the previous deliberation between war and peace, I do not hesitate to say, that it is the last to be consulted. These are among the steps by which the freedom of mankind is invaded or betrayed. From a civil to a military, from a military to an arbitrary government, the gradations are easy, the transition will be rapid. The same facts, which counteract principles to day, will be precedents to-morrow, and principles the day after. Let the nation look to it. The extremities are the first to mortify, but not the last. If there be any political logic in the present practice, it leads you to this conclusion, that in the actual conduct of a war, civil governors, magistrates, and peace officers, are the fittest persons to be employed. Your principle, if you have any, binds you to occupy every man in the business, which he does not understand.

Now, Sir, let us compare the late transactions with the system recommended by every authority, and ratified by every power in this kingdom, for the government of our possessions in India. If that system has any weight with you, you cannot but conclude with me, and it is the only general principle which I shall desire you to admit, that to make war in India is not to be justified on any ground, but that of unavoidable and irresistible necessity: I mean the absolute necessity of defence; there is no other. Prove that such necessity existed; show plainly that the war could no way be avoided; and then I shall submit, as all men must do, to an evil without a remedy. It is not pretended, that the hostilities committed by Tippoo Sultan, whether just or unjust, were directed against any part of the British dominion. His aggression, whatever it may be, consists in attacking our ally the rajah of Travancore. Whether he or the rajah be the aggressor in this quarrel, is a material question, though

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not conclusive on our conduct. I mean to bring it fairly into view. But, first of all, let me observe to you, that there is a paper on your table, which many gentlemen, I believe, never heard of, but which you ought to take the trouble of reading, since, in all probability, you will be called upon, ere long, to give your sanction to the contents of it: I mean, the treaties of alliance, offensive and defensive, lately concluded with the Mahrattas and the Nizam. That war and conquest should be the object of an offensive alliance, is not extraordinary; but it is indeed extraordinary that a British governor should profess that the acquisition of territory in India was his object in making war; that he should propose or think of a new partition of dominion, or that he should even accept of an extension of territory, if it were offered him. We possess more already than we know how to govern, or perhaps may be able to defend; and the legislature has declared to your governors, but has declared to them in vain, that these are "measures repugnant to the wish, the honour, and the policy of this nation." Shall I be told that, on my principles, an attack is not to be repelled; that hostilities preparing, though not commenced, are not to be counteracted; or that an unjust invader, who fails in his attempt, is to suffer nothing but repulse? The conclusion would be absurd. I deny and disclaim it. Defence is not only your right, but your duty: the right of defence includes that of attack; but in no case are you to aim at the acquisition of territory. If the event of the war should leave you the power of inflicting a penalty, before I sit down I shall show you what it ought to be. The gentlemen employed in concluding these treaties, have received a mark of honour from the Crown: and, in following their instructions, I presume they have deserved it. As to any difficulties they had to overcome, we have no information, nor am I able to form a conjecture on the subject. But this I know, that the Indian princes have an extreme facility in entering into such engagements: they make no difficulties in the first instance, nor will they alter their tone, until they see us so engaged and committed, that we cannot retreat. Look at these treaties, and consider for a moment what their professed object is, and what it ought to be. You would naturally expect, that as Tippoo's invasion of the territories of Travancore, is stated to be the cause and commencement of the war, the defence of the rajah, the reparation due to him, and his future security, would have been especially provided for: yet you will find that, in these treaties, his name is not once mentioned. There is not a single word that alludes to the cause of the quarrel, or from which you can infer that the interests of the rajah were ever thought of. On the apparent principles of the treaty, we had just as good a right to form an offensive alliance against Tippoo Sultan, if Travancore had not existed, as we have at present. All we are to collect from the treaties is, that Tippoo is the common enemy; that having engagements with the three contracting powers, he has acted with infidelity to them all; that we ought to punish him, and deprive him of the means of disturbing the general tranquillity in future. But how is this to be done? by a general partition of his country, or of as much as we can conquer, between the three contracting parties. The interests of the wretched rajah, whom we set up as the stalking horse of the war, and who, in the first instance (though, in my opinion, very deservedly), suffers most by it, are not only abandoned in the treaties, but utterly forgotten. Another omission in these treaties very well deserves your notice. One of the articles authorizes the governor-general to require from the Nizam and the Mahrattas, that they shall furnish him (jointly, I suppose, for the quotas are not limited as they should have been) with ten thousand horse, on a month's previous notice, "the pay of the said cavalry to be defrayed monthly by the honourable company." You would conclude, of course, that in an article, which provides for the hire of a body of foreign troops, and which in effect is a subsidy treaty, the terms should be specified, the amount of the subsidy distinctly stated. But if this be your conclusion, you will find youselves deceived. The next words are, "at the rate and on the conditions hereafter to be settled!" I need not tell you, that there never yet was an example of a subsidy treaty, in which the rate and conditions were not specifically agreed on: they belong to the essence of the agreement. The omission of them not only makes that part of the treaty nugatory; it not only leaves it in the power of the other party to defeat your requisition, by cavilling about the pay and conditions, or by making such an unreasonable demand, as you

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cannot accede to; but it lays the foundation of a future quarrel between the contracting parties. You have left them at liberty to grant or refuse; that is, to govern their conduct by the events of the war. This omission is the more extraordinary, because, in the case of our lending the Nizam a body of 1,600 sepoys, and six field pieces, manned by Europeans, it is expressly provided that the expense shall not exceed the exact sum which it costs the company to maintain that force in the field. Perhaps it might not have been thought prudent to suffer the charge of 10,000 cavalry to appear on the face of the treaty. The minds of people at home might be startled at the amount of it. Be it so. My hopes of your taking a wise resolution, on the present occasion, are principally founded on your fears. If you are not to be convinced, perhaps you may be deterred. It is my business and duty to make you see the object which the treaty endeavours to keep out of your sight. I affirm, then, and I pledge myself to prove, that the expense of 10,000 horse, with their officers, baggage, and necessary attendants, will fall very little short, at the lowest computation, of 800,000*l.* a-year, and I state it moderately at that sum; for my opinion is, that it will amount to much more.

Before I enter into the merits of the war itself, allow me to state to you, in what circumstances we engage in it, and what our capacity is to carry it on. This is a material point, and I hope will meet with more consideration in this House than seems to have been given to it in India. In the deliberation of a wise government, this point should have taken the lead. To look for quarrels, which we are able to maintain, where the object is important, and the difficulty inconsiderable, however barbarous and unjust, may still pass for policy in the eyes of the vulgar. But what opinion are we to conceive of the wisdom of a government, who voluntarily plunge into a war, beyond all measure expensive, who tell you that their resources are "exhausted, and totally inadequate to support the expenses of the war;" that the "importance of the places in dispute cannot be opposed to the serious consequences of a war;" and that it is "a contest that cannot, even if attended with the utmost success, prove advantageous to our affairs!" I yield to the sanguine hopes held out to us. I take it for granted in argument, that a victory is probable, and a defeat impossible;—that we shall conquer and divide the dominions of Tippoo Sultan. On a contrary supposition, there would be no occasion for debate: the event would speak for itself, and I should leave you to be convinced by it. The following authentic documents require no comment; they represent the state of the finances of Bengal and the Carnatic at the outset of the war. Bombay is out of the question. The war is a good thing, and they are ready to take part in it, especially as they contribute nothing to the charge. You know that even their peace establishment is supported by a remittance of 400,000*l.* a-year from the revenues of Bengal.

"Mr. Hollond and council to lord Cornwallis 9th Jan. 1790. Your lordship being well acquainted that the revenues of this presidency are totally inadequate to the expenses of a war, we shall avail ourselves of all opportunities of drawing on your government."

"Lord Cornwallis to John Hollond, esq. 30th March, 1670 — So far am I from giving credit to the late government for economy, in not making the necessary preparations for war, according to the positive orders of the supreme government after having received the most gross insult that could be offered to any nation; I think it very possible that every cash of that ill-judged saving, may cost the company a crore of rupees."

"Fort St. George, 7th May, 1790. Extract of Mr. Turing's minute.—From what the president has experienced since his arrival, he must be well acquainted with the embarrassed state of this government, whose current charges, even in times of peace, are fully equal to its common resources; and now that we are involved in a most expensive war, I am really at a loss to judge, even with every possible assistance from the government of Bengal, by what mode of supply we shall be able to answer the exigencies of the service."

"Lord Cornwallis, in council, to Fort St. George, 21st June, 1790. — We need not conceal from you, that the resources of Bengal, exhausted as they are by drains of various kinds, during a long series of successive years, could not, even with the aid of the utmost punctuality in his highness's payments, either according to the terms of the treaty concluded with sir Archibald Campbell, or of those of the propositions made to him by the court of directors, to which he has lately acceded,

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long support such expenses as those with which the present war must unavoidably be attended without being reduced to great extremity of distress. But we must freely declare that, unless the whole, or great part of the heavy arrears, which are at present due by the Nabob of Arcot and the rajah of Tanjore, can be recovered, and a punctual discharge of the stipulated propositions of their revenues can be secured in future, for the general good, we not only foresee great immediate embarrassment to the company's finances but also much ground for apprehension, that the ultimate success of the war may be greatly endangered.

Lord Cornwallis to Fort St. George, 10th Aug. 1790.—At a dangerous juncture, when the resources of Bengal are totally inadequate alone to support the expenses of the war."

General Meadows to the council of Fort St. George, 14th Aug. 1790.—On the 1st of October, I will, if possible, march to attempt the Ghauts; if this is practicable, it appears to me we may parry the monsoon, and shorten the war, which it would be economy to do, at any expense; for we must be undone by procrastination."

Under circumstances such as these, I believe it will not be denied that a prudent government, instead of yielding to the impulse of provocation and resentment, would have laboured to keep open every door to an accommodation—instead of promoting a rupture, instead of inflaming a quarrel, even with justice on their side, would have done every thing they could to appease it. You are now to consider, on what sort of ground they have acted. I mean to select the principal facts from the papers on your table, and leave them to your judgment, with very little observation. There is no treaty of alliance or guarantee, that I know of, directly between the India company and the Rajah of Travancore; we call him an ally, but in fact he is a dependant and tributary of the Carnatic; as such, he was included in the treaty of perpetual friendship and peace between the India company and Hyder Ally in 1769, in common with several others, provided they do not become the aggressors against either of the contracting parties; but, if they are aggressors, they are not to be assisted by either party. In this sense, he was included in the last treaty of Mangalore, and as such I admit he is entitled to protection. That point is not disputed. The short distinct question of right is, whether, by any act of guarantee expressed or implied in that treaty, you are bound to defend him in those dominions alone which he possessed at the date of the engagement, or to extend your protection to subsequent acquisitions made by him, without your consent or knowledge, and condemned and prohibited by you, as soon as you were informed of it?—that is, in effect, whether any one of your tributaries may, at any time, by a clandestine act of his own, or by provoking an attack, involve you in a war? If you determine that he may, you may as well affirm that there never shall be peace in India. Your tributaries may implicate you in their quarrels, without consulting you, or they may do it in collusion with your own governors. A treacherous governor of Madras, for instance, who wishes to have a war, need only give the hint to a petty dependant rajah to begin a dispute with some of his neighbours, under a secret promise of assistance. Provocation and resentment re-act upon each other. The sword is drawn; the original merits of the dispute are perplexed or forgotten, and the war is declared to be a measure of necessity. Individuals turn it to account, and the public fortune is ruined by it. The princes of that country are in general restless, cunning, and ambitious. They catch at their immediate object with the eagerness of children; they are dexterous and artful in their means, and they have no sort of scruple in the choice of them. But, true wisdom they have none; of a solid, permanent, remote interest, they have no idea; otherwise would it be possible that, with all the experience of India before their eyes, with the fate of the ruined Nabob of Bengal, the vassal Nabob of Oude, the banished rajah of Benares, the rana of Gohud, the padsha himself, and twenty other prostrate princes, the victims of British friendship, in their view, they should ever think of engaging in measures which might lead or oblige them to call in our assistance! This Rajah of Travancore at least might have been better instructed by the example of his immediate superior the nabob of Arcot, who, after wasting a long life in perpetual intrigues with the company's servants, with the king's ministers, and with adventurers of every denomination — after squandering millions without end, to support a caballing interest at Madras and in England, finds himself, stripped, at last, of territory, wealth, and dominion, and finally doomed

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to go out of life as naked as he came into it. The last resource of the lawful nabob of the Carnatic, is to file a bill in chancery against the East India company, to oblige them to account with him for the remnant of his revenues! Such, I have no doubt, will be the fate of Travancore. We may possibly protect him from the sword of Tippoo Sultan; but I defy him to escape from the devouring friendship of the English.

The first paper on your table, is the rajah's letter to the governor of Fort St. George, of the 14th of June, 1789. He says, that "at this time, Tippoo Sultan approaches near to the fort of Cranganore, belonging to the Dutch, with an intention of possessing himself of it; that this fort was built at the distance of about a gun-shot from the boundary of his country; and that he sees the necessity of defending it, not only on account of the protection and welfare of his own country, but because there now subsists between the Dutch and him a positive engagement that, in case of being engaged in warfare, they shall mutually assist each other." In the first place, Cranganore is at some miles distance, and not within gun-shot of that line, which he calls his boundary, but which in reality includes a considerable part of the territory of Cochin, acknowledged to be tributary to Tippoo Sultan. But let the position of the fort be what it may, the question of possession lay between Tippoo and the Dutch. If the rajah be an independent prince, he may assist the Dutch; but let him do it at his own risk. We are not bound by his engagements. On the other hand, if he depends on us for protection and support, he must submit to be conducted by the hand that protects him. In acting for himself beyond the letter of the guarantee, he virtually renounces any claim to the benefit of it. Neither is it true, that the forts in question were necessary to the defence of a country so strong and difficult of access as Travancore. [Lord Cornwallis, 15th Dec. 1789.] The governor and council of Fort St. George say, "they do not think them an object of any importance to the general strength of the empire." Mr. Powney, the company's resident, says, "Cranganore and Ayacottah will be found, upon examination, to be very inconsiderable, and not acquisitions worthy of serious competition." On this point I am the more inclined to rely on Mr. Powney, because in general I see no disposition in him to counteract the views of the rajah. On the 9th of September, 1789, lord Cornwallis says, "We cannot conclude this letter without observing that the conduct of Mr. Powney seems to have been inadvertent and blameable, in having so rashly adopted the ideas of the rajah and his minister, relative to the acquisition of Iaycotta and the fort of Cranganore from the Dutch at this critical juncture." Mr. Powney makes his defence, and lord Cornwallis admits it, though I confess it appears to me extremely insufficient. The duty of a resident is to give intelligence, not opinions, to his superiors; especially voluntary and deciding opinions on great questions of state. He says, "that he had ascertained the indisputable right the Dutch had to dispose of the above places; that the rajah of Cochin had not the least connexion or claim to them; and that Tippoo could not, with justice, have any pretensions to contest the measure." If so, the merits of the quarrel, and the necessity of the war, are determined by the resident at Travancore, in favour of the rajah. I know nothing of this gentleman; but I think that such language, from any of the company's residents at an Indian durbar, should be listened to with great reserve. Mr. Powney, we find, had had an early conversation with the rajah's minister on the subject of the intended purchase; "and it did not appear to him necessary to communicate what passed on this occasion between the minister and himself," viz. to his own court.

The next fact is, that the rajah purchases from the Dutch the two places in dispute between them and Tippoo Sultan; that is, the Dutch, unable or unwilling to contend with Tippoo, *pendente lite* make over their litigated right to the rajah, who can no way maintain it, but at our risk and expense. Whether the transfer of the forts was real or collusive, is immaterial; the effect is the same: he takes the quarrel on himself, without our knowledge, and then calls upon us to support it. In the hands of the Dutch, or even of the rajah of Travancore, if unconnected with the English, these forts, though erected in a country dependent on his government, might be of no great consequence to Tippoo, because he has nothing to fear from either of them. Not so, if they are to be possessed by the most formidable power in Hindostan.

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[Lord Cornwallis, 15th Dec. 1789.] He considers the transfer as in reality made to us, and in that sense very reasonably opposes it. He desires that the forts may be returned to the Dutch: he objects to innovations, and, with equal truth and moderation, says, "whatever is contrary to usual custom, is improper." As soon as the governor of Fort St. George was informed of these transactions, he flatly and positively condemned them. In the first instance, he gave the rajah not only good advice, but fair warning. "I think any purchase of forts and lands from the rajah of Cochin, who is a tributary to the chief of Mysore, will tend to irritate this chief against you, and have the appearance of a collusive transaction. I have desired Mr. Powney fully to state to you the serious consequences which may result from engaging at this time in any measures, that may produce discussion between the chief of Mysore and yourself. I think it necessary to inform you, that this government will not support you in any contests you may engage yourself in beyond the limits of your own possessions. Consider this advice of consequence, and as coming from your sincere friend." When Mr. Hollond heard that the purchase was concluded, he wrote to the rajah again: "I lament that you have taken this indiscreet step. I cannot approve of your having entered into a treaty with the Dutch for extension of territory, without the consent of this government. This very impolitic conduct makes you liable to a forfeiture of the company's protection; for you cannot expect that they will defend a territory, of which you were not possessed when their troops were sent into your country, and which have been since obtained without their assent. I therefore think it necessary you should immediately give back to the Dutch the places you have thus indiscreetly received from them, and thereby establish your affairs precisely upon their former footing." In Mr. Hollond's correspondence with the government of Bengal, the same principles are uniformly adhered to. The president and council of Fort St. George, in their letter of the 3d of January, 1790, very truly and prudently say, "It would be highly inconsistent to suffer the imprudent, rash, and unreasonable conduct of a tributary of the Carnatic to be a cause of contention: and we are of opinion it would be rather advisable to avoid, if possible, precipitating public affairs into a predicament that might eventually involve a war. The conduct of the rajah has, in our opinion, been unwarrantable on every principle of policy and justice. It is not, therefore, entitled to the support of government; and the most fair and honourable mode of adjusting all differences is, probably, either to return the forts to the Dutch, or, if they will not receive them back, to raze them to the ground." In my opinion, Sir, this last would have been the most advisable expedient. The rajah, on his own principles, ought to have demolished them the moment he got possession of them. The subject matter of the dispute, and every pretence for jealousy on either side, would then have been removed. His only apprehension is, "that Tippoo should, of a sudden, possess himself of them;" for, "independent of this consideration, there is not the smallest benefit or advantage accruing to me from the possession of Ayacottah and Cranganore." I know nothing of Mr. Hollond, therefore cannot be suspected of opposing his personal reputation to that of lord Cornwallis, which I know is unimpeached. The merits of the measures in question are to be tried by facts and principles, not by characters. Even the character of Tippoo Sultan ought not to be admitted into the debate. We have no right to revert to grievances that existed before the treaty of Mangalore; and if we had, perhaps it might be found, upon a fair inquiry, that even he is not so bad as he is painted. In questions of right between the natives of India and our representatives there, the evidence on which we give judgment is transmitted to us by one of the parties; the other is never heard. Mr. Hollond, for aught I know, may have been guilty of the sordid offences imputed to him; he may have defrauded the India company of four lacks and a half of pagodas, or 180,000*l.*, with which I see him charged by the nabob of Arcot. Be it so. When his accusers bring him to justice, I shall believe they are in earnest. On the subject immediately before us, in my opinion he did right: and I am not singular in thinking so. The governor-general and council, in their letter to Fort St. George, of the 13th of September, 1789, have expressed themselves to the same effect, in terms and on principles which I adopt without

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reserve. I beg leave to read to you the three first paragraphs of this letter: "The governor-general has communicated to us your letter, dated the 16th ultimo, which he received yesterday, and we think the subject of it of so much consequence, that we lose no time in declaring our entire disapprobation of the conduct of the rajah of Travancore, and in requesting that you will take immediate steps to restrain him from engaging in any new connexions, either with the Dutch or with the rajah of Cochin, as they must not only be highly offensive to Tippoo, but might justly be considered as direct infractions of the late treaty of peace.—Should Tippoo, in violation of that treaty, become the aggressor, by attacking the rajah of Travancore's territories, without provocation, we are bound, by considerations of honour and interest, to protect him with our whole force. But should he provoke Tippoo, by making conclusive purchases of forts or places in the territories of one of his tributaries, not only without his consent, but even at the time that such tributary was threatened with his resentment; and should he, in particular, interfere in any manner whatever in the disputes between Tippoo and the rajah of Cochin, who is his acknowledged tributary, he will justly draw Tippoo's resentment upon himself, and at the same time forfeit all right to the company's friendship or interference in his favour.—We must beg that you will, without loss of time, state these sentiments in the strongest terms to the rajah of Travancore; and represent to him, that provided he will observe a strict neutrality in all the disputes amongst his neighbours, he may depend upon the most complete protection from the company. But that, on the other hand, our regard to the faith of treaties will entirely put it out of our power to interfere, if he should resolve upon engaging in transactions, which must be considered by all the world as acts of violence and injustice."—After a declaration of their sentiments, so proper and so prudent as this appears to be, I see no reason why they should have suffered themselves to be involved in the question of right between Tippoo and the Dutch. I lament the fact, but I am unable to account for it. In their letter of the 13th of November, they say; "3d. If upon investigation that may have been made before your receipt of these instructions, the independent right of occupancy in the Dutch, as we have defined it, should have been clearly and incontrovertibly ascertained, the possession of the Travancore rajah is to be maintained and defended; and you will notify this determination to Tippoo, with the grounds upon which it has been formed." In the preceding letter, the restraint imposed upon the rajah from engaging in any connexions with the Dutch, is absolute and unconditional.

Allow me to remind you, Sir, that we are now considering a question of fact, by itself, and independent of its consequences, namely, whether Tippoo or the rajah was the aggressor in this quarrel? I desire nothing better than to let it be decided by the authority of lord Cornwallis. The rajah began by "engaging in new connexions with the Dutch, and by making conclusive purchases of forts or places in the territories of one of the tributaries of Tippoo Sultan, not only without his consent, but even at the time that such tributary was threatened with his resentment;" that is, he gave the specific provocation, which lord Cornwallis affirms, "would justly draw Tippoo's resentment upon himself, and at the same time forfeit all right to the company's friendship or interference in his favour." In opposition to the evidence of your senses, you may deny the fact; but, unless you renounce your reason too, you cannot deny the conclusion. Mr. Powney has taken another course; and I must own that, if there had been any mystery in the transaction, he has effectually cleared it up. In his letter of the 4th of August, 1789, after the purchase of the forts was concluded, he says, "The rajah, by the defence of these places, should they now be attacked, cannot be considered as the aggressor of hostilities, for they become a part of his possessions, as he would have been, had he rendered the assistance he intended when they belonged to the Dutch." To have taken a part with the Dutch, in defence of the forts, would have made him the aggressor; but now he is not the aggressor; why? because he has taken the defence of them entirely on himself. In the first instance, he might have pleaded his alliance with the Dutch. But no; he thinks it better to purchase the quarrel for his own use, because then he concludes you will support him in it, that is, that you will take it upon yourselves.

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Do you admit the distinction to be valid? Is the difference real? is it important? does it constitute a ground sufficient for involving India in a war? The rajah affirms that sir Archibald Campbell "advised the purchase of these two places on every account from the Dutch, and that he had purchased them with the knowledge, and agreeably to the advice of the governor." These assertions cost nothing. The court of directors say, that "nothing appears on the Madras records to corroborate the assertion of the rajah." Sir Archibald says, "I can venture to affirm, from memory, that I neither countenanced nor advised the rajah in the purchase of Cranganore and Iaycotta." Sir Archibald and the rajah are at issue. I do not believe that any man seriously suspects the veracity of sir Archibald, but if you support the principle of the war, if you adopt and defend the original right of the purchase, you practically determine that sir Archibald has been guilty of a falsehood. To protect the rajah, while you declare him to be an impostor, is impossible. That the present war originates from an act of the rajah, and that he was the aggressor in this quarrel, appears to me to be as clear as evidence can make it. But, in politics, as well as morals, the aggressor is bound to answer for all the consequences of his aggression. He, who gives the first offence, not only provokes but justifies the resentment, even though it should exceed the measure of the offence. In my opinion, Tippoo Sultan had a right to attack the rajah of Travancore: he was not the aggressor, for he did not do it without provocation. But even, granting the contrary to be true, and that his attacking the lines on the 29th of December, was an act of unprovoked hostility, it does not necessarily follow, that we ought to have considered him from that moment as at war with the company. A fair and honourable opening was still left to an accommodation. He did not persevere in attacking the hereditary dominions of the rajah. In his letter of the 1st of January, 1790, he disavows the hostility of the 29th of December; he says it had happened without his intention; that he had recalled his troops, and sent back some people, whom they had captured and brought with them. I do not mean to insist on the truth of these declarations; the disavowal was sufficient, and ought to have been accepted, as a ground for negociation. What satisfaction had we from Spain in the affair of Falkland Islands?—a disavowal; or in the last affair of Nootka Sound?—a disavowal. Does any man believe that the Spanish officers acted without orders? No, Sir; the principle of the admission is, that, when the intention of hostility is disowned, pacific measures may be sufficient for the purpose of reparation and security. We ought to have seized the opportunity which Tippoo's declaration offered us, of putting an end to the difference between him and the rajah, by an amicable, and, in my mind, a very easy adjustment. With us, at least, it is evident that Tippoo had no idea of a war. If he had, he would have begun it, as he might have done effectually, by invading and over-running the Carnatic. From the 29th of December to the 1st of March, there seems to have been an uninterrupted suspension of hostilities. Surely, some use might have been made of that long interval, to bring about an accommodation. On the 1st of March, the rajah's people advanced from the lines to demolish and destroy the apparatus of a battery, which Tippoo was preparing to form. An engagement followed of course, and they carried their point. In these and the subsequent hostilities, the honour of our government was no way committed. We might still have acted with effect as umpires and mediators.

I do not question that the war has been conducted with as much economy, vigour, and expedition, as the nature of the service, the climate, and the country, would permit. But, in a war in India, the first are not to be expected—the second are not to be overcome. The draught and carriage bullocks for an army of 17,000 men, are estimated at 30,000, at above 24,161*l.* a month, drivers included. Private letters affirm that the real number exceeds 40,000. If the two other armies, which were destined and preparing to take the field, are supplied in the same proportion, you will find that, in the single article of bullocks, you incur an annual expense of 700,000*l.* Having no military knowledge, I shall not venture to form a conjecture, how such a line of march is to be protected by so small a force, especially against an enemy extremely superior in cavalry. From this sample of your expense, you may imagine, for I defy you to judge what the total may amount to. In my opinion, if

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the whole account were made up and closed at the present hour, four millions sterling would not clear it. General Meadows very truly declares, that "we must be undone by procrastination;" and, for my part, I have no doubt that he has done every thing that could be done by human activity to shorten the war. Yet the fact is, that his army, perfectly prepared and appointed for service, was assembled at Tritchinopoly in March last, and that by the middle of September they had reached Coimbatore, without opposition, without having seen an enemy. The direct distance seems to be about 120 miles; the march may be something more. On the state of your finances in India, I shall offer you but one observation more, and with that I shall dismiss the subject. At the outset of the war, the government of Bengal, having nothing but paper in their treasury, are obliged to raise the interest of money from 6 and 8 to 12 per cent., and their first remittance to Madras is of eight lacks of rupees in gold.—It is a bad symptom of the state of specie in Bengal, when so small a sum as 80,000*l.* could not be remitted in silver. The loss on the exchange or re-coinage of gold mohurs must be very considerable. The government of Madras say, that they had "advertised for proposals for paying in sums of money in arcot or other rupees, and that they had recourse to these measures, from the Nizam's vaqueel having declined receiving pagodas in payment of the balance, amounting to rupees 8,66,665, for current peshcush and arrears."

I have stated to you the origin of the war, and the means of carrying it on. Let us now consider the main object and effect of it, supposing we succeed. It is to subvert one of the declared fundamental principles of the British policy ever since we had an establishment in the Carnatic; it is to increase a power at all times formidable to us, but now more formidable than ever; it is to bring that power, with a new accession of strength and territory, so much nearer to our own frontier, by breaking down and destroying the only barrier between us. Instead of argument on this subject, I shall give you authority, which I believe you will find it difficult to resist. It is that of the court of directors, in several successions; it is that of your government of Madras, in unsuspected times; it is that of Mr. Dupré, a man of the soundest and clearest capacity among all the company's servants, with whom I have been acquainted; it is that of Mr. Hastings, a man of talents without dispute, and of talents to be trusted too, as long as they were guided by the solid judgment of Mr. Dupré. In effect it is the authority of lord Clive, not in terms, but plainly to be collected from his conduct.

Extracts of Letters from the Court of Directors to Fort St. George.—"25th March, 1768. Par. 45. The Mahrattas, instead of being reduced, are like to be aggrandized by their conquests of the Mysore dominions, which bring them so much nearer to the Carnatic."—"13th May, 1768. Par. 7. That you should have recourse to the Mahrattas for that assistance is still more alarming; and from the spirit of your negociations with Maudarow, and your wild proposal to Bengal, of putting up one of Shaw Allum's sons, we fear all the barriers to the Mahratta power will be broken down, and that they will add the Decan and Mysore dominions to their extensive empire, and hasten that event you designed to avert. We mean their conquest of the whole."—Par. 8. "Lord Clive soon discerned that it (the extirpation of Sujah ul Dowlah) would have broken down the strongest barrier against the Mahrattas and the northern powers, and therefore wisely restored Sujah Dowlah to his dominions: such, too, should be your conduct with respect to the Nizam and Hyder Ally, neither of whom it is our interest should be totally crushed."—"17th March, 1769. Par. 17. Your proceedings of the 28th of April, still leave us reason to apprehend you may enter into engagements with the Mahrattas for a body of horse, which we think will have very fatal consequences, by harassing and laying waste your own country, as well as the enemy's; and we apprehend notwithstanding the vast sum of money they will cost, they will be of very little use, it not being probable they will expose themselves much for our service; and when you have occasion to disengage yourselves from them, disagreements may arise of dangerous consequence."—"17th of March, 1769. Par. 4. We repeat, we shall not think ourselves secure while we have a soldier or sepoy in that country (Mysore), nor till we see it given to some power who may preserve it as a barrier against the Mahrattas, and who may be a useful ally, should we ever have occasion to call

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in the assistance of a country power."—"30th June, 1769. Par. 5. We must say that, upon principles of policy, we wish for a peace with Hyder Naigue, whenever it can be obtained on the most moderate terms. Our best policy is, to check their growth by every opportunity, or, at least, to avoid lending our own force to their aggrandizement, which we certainly do, as often as we engage in wars with the few remaining chiefs in India, who are yet capable of coping with them."—"Par. 7. Nizam Ally and Hyder Naigue are two of those chiefs, and it is our true interest to preserve a good understanding with them."

Opinion of Mr. Dupré and Mr. Hastings.—"We are clearly of opinion, that if the company were to take a part with either (viz. the Mahrattas and Hyder Ally), the supporting of Hyder, as a barrier against the Mahrattas, would be far more eligible, than to throw the whole power into the hands of the Mahrattas, by uniting with them to reduce Hyder Ally, and add the Mysore dominion to theirs."

Extract of a Letter from the select committee of Fort St. George to the court of directors.—"29th Sept. 1770. It appears that you look upon Hyder Ally as a principal barrier to the Mahratta power, and that it would not be for the interest of the Carnatic that he should be entirely reduced. The 12th paragraph of your commands of 23rd March last, received per lord Mansfield, strongly confirms that opinion, and we are fully sensible of the fatal consequences that must ensue to the Carnatic, should the Mahrattas gain possession of the Mysore country. "We have all along thought it impolitic to the last degree to raise the power of the Mahrattas, already too great, and dangerous; our reasonings at large support this proposition."—"12th Oct., 1770. All the ideas we draw from your letters, are clearly against raising the power of the Mahrattas, and we are clearly of that opinion also."

I shall offer you but one remark on these declarations. At the time when they were delivered, the Mahrattas were by no means so powerful as they are at present. Since that period, the upper part of Indostan has been over-run by Madajee Scindia. The capital of the empire, and the king's person, are in his possession. The house of Tamerlane is gone; the Mahomedan princes are reduced to nothing. The Mahratta power encroaches in all quarters, and gathers round us every day. The only Mahomedan power, capable of making an effective stand against them, was that of Tippoo Sultan. If this war should be attended with all the success which you are encouraged to expect, there is but one way in which you can make a prudent and beneficial use of it. Beware how you give away his territory to the Mahrattas, or take any part of it yourselves. Since you say he is the aggressor, exact the penalty from him in money. Your true policy is, to take revenue without territory. As long as he occupies a place in the scale, he may help you to balance the power of the Mahrattas. Let him govern his country himself. When you take your compensation in money, you receive it without deduction, and you know what it should amount to. The revenues of a newly-acquired territory are the subject and the source of endless embezzlement. You must create a new civil establishment to govern, to collect, and to manage. You have a new line of frontier, and of course you must have an additional military force to defend it. When these expenses are deducted, the balance is your profit. Compare it with the losses and distress which you have suffered by the war, with the money you have spent and the debts you have incurred, and then you will know whether the value of the acquisition be a return for what it cost you. I have delivered my opinion, in strong, but liberal terms I hope, of this transaction. It was my duty to do so. The character of lord Cornwallis has, indeed, been impeached in this House. It may not be a necessary, but I feel it to be an honourable duty in me to defend him. An active friend of Mr. Hastings has thought himself at liberty to assert, that lord Cornwallis has uniformly pursued the system and acted on the principles of Mr. Hastings. My contest on that point is not with the hon. major. On the subject of the impeachment, he is a privileged person. I consider him as the advocate and representative of his friend, and I listen to him with the same credit and assent that I would do to Mr. Hastings himself—with great allowance and some reserve. But he has called upon the chairman of the court of directors, the representative of the India company and of the government of India in this House, to warrant and support the truth of the as-

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sertion; and I must own, the answer given to this appeal was as full and complete an affirmative as the hon. major could have expected. The chairman of the court of directors, so called upon, did in his place declare, that lord Cornwallis had uniformly adopted the principles, and trodden in the steps of Mr. Hastings, in every department of his government, particularly in his revenue system. The House of Commons have impeached Mr. Hastings for high crimes and misdemeanors. On their own principles, they ought to impeach lord Cornwallis, if they believe the chairman of the court of directors. On his principles, they ought to reward Mr. Hastings, instead of accusing him. But I am at issue with that gentleman upon the fact. I deny that lord Cornwallis treads in the steps of Mr. Hastings, particularly in his system of collecting the revenues. [Here Mr. Francis was called to order by the Speaker, for quitting the subject of debate]. Well, Sir, I submit to the sense of the House; though I own I think it a question materially connected with the business before us, and since it had been started, very proper to be determined, whether the conduct of our affairs in India, especially in times and emergencies so critical as these, be committed to a man, whom this House would be bound to impeach for high crimes and misdemeanors. Reproach must fall somewhere.

On the subject of the war, I shall offer you but one observation more. I cannot but attribute the misfortune we are involved in, in some degree at least, to the imperfect construction of the actual government of Bengal. You have a nominal council at Fort William, as you have a nominal direction at home. Not only the governor-general is not bound by the unanimous opinion of the council against his own, but, in effect, he has no council to advise him. It requires vigour as well as capacity, it requires independence of situation as well as integrity, to oppose so great an authority and power as that of a governor-general, and supported as lord Cornwallis is known to be supported. Do you think that, if any one of these gentlemen had entered a resolute, well-argued protest in council against the war, on the grounds and principles on which I protest against it here, do you think that the measure could have proceeded? My lord Cornwallis, I am persuaded, would have listened to such argument. The most determined man that lives, I think, would have started at the responsibility he was going to take upon himself. Had it been my unfortunate lot, as it has been heretofore, to be second in that council, I would have remonstrated in private with lord Cornwallis; if that had failed, I would have recorded my dissent, and stated my reasons for it in the proceedings of the council; and I cannot but believe that the war would have been prevented.—The motions which I am now to submit to the House, are all of them narrative, except the two last. The facts are stated in the terms of the letters, from which they are collected. The concluding resolution is worded as cautiously as it could be to avoid personal censure. The directors, on a similar occasion, have made use of the same language. They wish for a peace with Hyder Ally, whenever it can be obtained on the most moderate terms. The final resolution, which I shall propose to you, is, that such orders may be transmitted to India, as may tend most speedily to procure a peace with Tippoo Sultan, on moderate and equitable terms. Mr. Francis then read the following resolutions:

1. "That the present war with Tippoo Sultan appears to have originated in the purchase of Cranganore and Ayacottah of the Dutch, by the rajah of Travancore.

2. "That on the 14th of June, 1789, the rajah of Travancore informed the government of Madras of the approach of Tippoo Sultan against Cranganore, then in possession of the Dutch, of whom he demanded the surrender; and that, on the 31st of July following, and pending the issue of the said demand, the rajah purchased the said fort of the Dutch government of Cochin.

3. "That on the 17th of August, 1789, the governor of Fort St. George informed the rajah of his disapprobation of the said purchase, giving his opinion, 'that it 'would irritate Tippoo Sultan, and appear 'as a collusive transaction;' and further, 'that the government of Madras would 'not support him in any contests in which 'he might engage, beyond the limits of 'his own possessions.'

4. "That the rajah of Travancore informed the government of Madras, that he had concluded the said purchase with the advice and approbation of the preceding governor, sir Archibald Campbell, whereas it is affirmed by sir A. Campbell, in his letter to the court of directors,

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dated 20th September, 1790, 'that he 'neither countenanced nor advised the 'rajah in the purchase of Cranganore and 'Ayacottah,' and it is asserted by the court of directors, 'that nothing appeared 'on the Madras Records to corroborate 'the assertion of the rajah relative to those 'places having been purchased by him in 'consequence of sir A. Campbell's advice.'

5. "That the governor-general and council of Bengal, in their letter of 29th September, 1789, have declared 'their 'entire disapprobation of the conduct of the rajah of Travancore,' and that engaging 'in any new connexion either with 'the Dutch or the rajah of Cochin, must 'not only be highly offensive to Tippoo, 'but might justly be considered as direct 'infractions of the late treaty of peace;' and that in their letter of the 6th of Dec. 1789, they have further declared, that 'of 'whatever importance the two plans 'might appear to the defence of the territories of the rajah of Travancore, it 'could not be opposed to the serious 'consequences of a war.'

6. "That the first hostility on the lines of Travancore, on the 29th of December, 1789, was spontaneously, and almost instantly disavowed by Tippoo Sultan, in his letter to the governor of Fort St. George, of the 1st of January following, wherein he states, 'that the attack was 'occasioned by the rajah's people having 'first fired on his troops, that thereupon 'the lines were invested, that he ordered 'his troops to discontinue the attack, and 'sent back some people whom they had 'captured and brought with them;'" and by a letter of the government of Fort St. George, of the 17th of February following, it is also stated, 'that the conduct of 'Tippoo Sultan, since that period (viz '29th December), had been conformable 'to such disavowal, for although his army 'was still encamped near the lines, no-'thing had been committed against them, 'nor had there been any movement 'against Cranganore or Ayacottah.'

7. "That by the letters of the rajah of Travancore, of the 1st of March, 1790, it appears, that 'from the 29th December, 'Tippoo Sultan continued quiet; and 'that on the 1st of March, the rajah's 'people advanced from his lines (that is, 'beyond the acknowledged boundaries of 'his dominions), in order to demolish 'certain preparations said to be making 'by Tippoo Sultan to form a battery, 'and that an engagement took place.'

8. "That it appears by the letter of the 3rd January, 1790, from the government of Madras, that in their opinion 'the purchase of Cranganore and Aya-'cottah might naturally be supposed to 'give umbrage to Tippoo Sultan, and 'that the company ought not to be con-'cerned in the defence of places furtively 'obtained; that it appeared highly in-'consistent to suffer the rash, imprudent, 'and unreasonable conduct of the rajah 'to involve us, and that his conduct was 'unwarrantable on every principle of po-'licy and justice.'

9. "That it appears by orders of the 17th November, 1789, and 8th February, 1790, from the government of Bengal, 'that if the right of the Dutch 'to Cranganore and Ayacottah could be 'ascertained, the transfer should be 'deemed valid and just, and the rajah's 'possession maintained and defended.'

10. "That, from the commencement of those transactions to the latest period of advice, there appeared to be an opening from the letters of Tippoo Sultan himself, to have adjusted the difference between him and the rajah of Travancore, by a fair and honourable negociation, through the mediation of the British government.

11. "That the expenses of the war must be felt, in a very serious degree, distressing to all our governments in India, and greatly overbalancing any probable advantages from success, the governor-general and council having given their opinions on the 29th of August 1789, 'That the contest, even if attend-'ed with the utmost success, cannot 'prove advantageous to our affairs in that 'country;' and general Meadows, in his letter of the 14th of August 1790, having declared his opinion, 'That it would be 'economy at any expense to shorten the 'war, for we must be undone by procras-'tination.'

12. "That it does not appear to have been an advisable measure for defeating any supposed ambitious projects of Tippoo Sultan, to hazard the consequences of offensive alliances with the Mahrattas and the Nizam, avowing a partition of conquests, in the terms of the late treaties concluded with those powers, in behalf of the East India company, by the supreme government of Bengal.

13. "That it is the opinion of this House, that it is the duty of the directors of the East India company, and

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of the board of control, to remit such orders to the company's servants in India, as may tend more speedily to procure peace with Tippoo Sultan, on moderate and equitable terms."

The question being put upon the first resolution,

Mr. *Dundas* began with declaring, that the hon. gentleman, instead of taking notice of all that appeared in the papers on the table, had left a great many of the most material facts stated in them wholly unnoticed, and had built much of his reasoning upon certain extracts and resolutions, dated upwards of twenty years ago, and upon certain papers which it would have been more regular and more fair to have had upon the table, instead of their having been pulled out of the private pockets of the gentlemen who referred to them; but he did not mean to complain of that; from all that he had heard, however, he had drawn conclusions so directly opposite to those which the hon. gentleman had stated, that as soon as the motions should be disposed of, he was determined not to leave it a neutral question, but would himself bring forward other resolutions, approving of the conduct of the government abroad, of the conduct of our allies, and of the whole conduct of lord Cornwallis. In what he was about to say he would put wholly out of his argument the question of the expenses of the war. Not that he did not confess and lament that the war we were unfortunately then engaged in, was a very expensive war; so seriously expensive, that nothing could justify it but considerations of justice, of policy, and a sacred regard of treaties solemnly entered into, and for the due observance of which the national faith stood pledged. He said farther, that neither the safety of the government of India, nor the character of any one man concerned in it, belonged to the question then before the House. Not that he meant to disavow the resolutions of 1782. He should give his most unequivocal approbation to those resolutions; and he was equally ready to applaud the act of 1784, which was grounded upon the systems published in the resolutions, which forbad government from making war for the purposes of conquest and of extension of dominion in India. The hon. gentleman's extract from the speech which he had made when the act of 1784 was passing, if it meant any thing, went so far as to say that no governor shall make war under any circumstances, or under any provocation: it meant that when our possessions were over-run with invaders, we should take no steps whatever to repel them or resent their encroachments. In the present case, an attack was actually made by Tippoo Sultan on the lines of Travancore, which we were bound as allies to resent, and upon that ground alone had we entered into the war. By the treaty of Mangalore the Rajah of Travancore became our ally and it was then agreed, that if any attacks were made on the ancient possessions of the rajah, we were to defend him. The question then was, whether the rajah's conduct had been such as to warrant our desertion of him? To this he would answer, that it most undoubtedly had not: nay he would go still farther; if he had been guilty of an error, our government would not have done their duty if they had given him up to Tippoo. Whoever said that the claim Tippoo, relative to Cranganore and Ayacottah, was the cause of the war, had not read the papers. Did any man, who had read them, doubt that Tippoo Sultan had previously advanced, with an army of 150,000 men, to the lines of Travancore, before he made any complaint against the rajah's conduct; and what was the meaning of his so doing, but an hostile intention to act against the rajah of Travancore? If gentlemen had seen the map of that part of India he conceived they would not reason a moment respecting the policy and the wisdom of the rajah of Travancore obtaining possession of the forts of Cranganore and Ayacottah. Let them look to that excellent geographer, major Elliot's account of the Mysorean family. Let them recollect also the universal panic that prevailed in the Travancore country, of Tippoo's determination to go to war. If the rajah, therefore, had not obtained the possession of the two forts in question, he would have been insane. The two forts had before been in the possession of the Dutch, who could not maintain them. If they had fallen into the hands of Tippoo, he would have been in possession of the key to the Rajah of Travancore's country. But let not the hon. gentleman call it a collusive bargain; that bargain was avowed by the king of Travancore, and had nothing collusive about it. For who did these forts belong to but the Dutch, who had conquered them from the Portuguese, and had them in possession for more than a century, independent of Tippoo, and independent of the

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rajah of Cochin? The Dutch had as much a right to dispose of and transfer them, as we had to give up any of our possessions. If we were to purchase Cochin from the Dutch, should we be guilty of any breach of treaty?—it would be the wisest thing for the Dutch to do, and for us to accept. With regard to Tippoo's claim of right to the forts, what authority was there for it but his own bare assertion? And, on the other side, there was the indisputable fact, that the Dutch had been actually possessed of these forts for more than a century. With respect to the next complaint namely, that the rajah of Travancore harboured rajahs and zemindars who had fled from the dominions of Tippoo; the rajah of Travancore had ordered them to quit his country as soon as he received the message from Tippoo; and as to the rajah of Travancore's lines standing in the territory of Cochin, the rajah had received a grant of the right to place them there from the former rajahs of Cochin, and there had been no change made since the treaty of Mangalore, and at that time Tippoo had made no remonstrance. It was evident, therefore, that Tippoo used those frivolous and unjust charges merely as pretexts. He would now say something on the different opinions that had prevailed in the councils of Fort St. George and Calcutta. Lord Cornwallis, from his uniform conduct and known character, would not have gone into the war, but on grounds of expediency, justice, and policy. He meant not, however, to rest the argument there; if lord Cornwallis had involved this country in an unjust and expensive war, without a justifiable cause, let not, he said, his character, high as it was, be a shield to protect him! Let lord Cornwallis stand or fall by his conduct. With regard to Mr. Hollond, he declared he was sorry the hon. gentleman mentioned him as he had done. God forbid that he should load any man in his absence, or accuse him when he was not able to be heard in his defence; but it was with the fullest conviction in his mind, that he declared he believed it would have been better for the country if Mr. Hollond had followed the advice of others rather than acted upon his own opinion. The instructions sent him by lord Cornwallis contained hypothetical directions for every possible case, and acting under the conclusions drawn from them, he could scarcely have erred. Those instructions were clearly penned in policy. Could Tippoo have an object under the sun in obtaining possession of Ayacottah and Cranganore, but for the purpose of over-running the kingdom of Travancore? It was impossible for him to apprehend an attack from the rajah of Travancore, nor need he have been afraid of the English, as they would not go to the attack through the Travancore country. But did any gentleman not know, that when Tippoo should have obtained the mastership of those forts there would have been an end to the security of our possessions in the Carnatic? He could not illustrate his idea on that topic more forcibly than he had done familiarly to a friend that morning, when he had told him, that if the French had possession of Scotland, England would not have been in greater danger than the Travancore country and our possessions in the Carnatic, if Tippoo had possession of those two forts. It was absurd to talk of danger from the Mahrattas at this time, and most especially that more danger was to be apprehended from them than from Tippoo. The reverse was exactly the fact. The hon. gentleman had read some extracts so far back as 1768. If he were to scratch out the word Mahrattas, and insert the word Tippoo in all those extracts, they would have some applicable meaning. A great part of the country that had belonged to the Mahrattas, was now governed by Tippoo, who had conquered it. The Mahrattas were, in fact, no longer an united body. Berar, Poonah, and Scindia's interests were separated. He mentioned the superstition that prevailed among the Hindoos, and the effect it had always obtained; whereas Tippoo was not so superstitious as to let his religion check him in his conquests. It was a constant practice with him to oppress the Bramins, and the reason was, that the greatest part of them were Gentoos, whose religious and political tenets were equally against him. Had the Mahrattas ever shown a desire to attack us, or to treat their prisoners with the cruelty that Tippoo always practised towards them? On the contrary they once made a British army captive, and sent them back to Madras without their experiencing any cruelty. Tippoo was by far the first in point of revenue and troops of any power in India, the British alone excepted. He was indeed, far superior to all the Mahrattas combined. Tippoo's heart and soul had been set on the kingdom of Travancore ever since March 1789,

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and so unprincipled an usurper would stick at nothing to obtain his object. Gentlemen must blind themselves wilfully to the evidence on the table, if they could assert that Tippoo was ever disposed to peaceful terms He never affected to wish for peace but in order to gain time, the more effectually to strike some blow. —Mr. Dundas went through the detail of the pretended negociation Tippoo had set on foot, by sending three letters to Madras, and observed that he had twice attacked the lines of Travancore, even when he was professing to wish for peace. Was it, then, a question in that House, whether they ought to submit to so gross an insult offered to their ally? He dared say it was not; and therefore he should contend that nothing but complete submission should satisfy us. There was every reasonable expectation, that the war would be speedily brought to a conclusion, and be attended with success; not that confidence of success had ever dropped from his lips: he hoped he should never be so rash and imprudent as to draw confidence of success from the precarious contingencies of war: one great reason for its being so much to be lamented was, its uncertainty. The hon. gentleman had remarked upon the appointment of military officers to civil governments, and had asked, if that was the best means to preserve peace? In reply, he would declare, that he thought it was; military men knowing more of the risks and hazards of war than men otherwise bred, were not ready to engage in contests so certain in their expense, and so uncertain in their consequences; whereas civil men were often, from a want of acquaintance with these circumstances, more likely to be involved in wars than soldiers. He repeated his conviction, that the war was necessary and unavoidable, and that it was equally founded in justice and policy: but he declared he verily believed we should have had no war, had Mr. Hollond followed the instructions of lord Cornwallis. Mr. Dundas said, that when the resolutions were disposed of, either by a negative or the previous question, he would move a resolution, stating, that Tippoo Sultan's attack on the Travancore lines was an unprovoked and unwarrantable assault; that the treaties entered into with the Mahrattas and with the Nizam, tended to maintain the peace of India; and that the conduct of lord Cornwallis in resisting Tippoo Sultan was highly meritorious.

Major *Maitland* (brother of lord Lauderdale) commenced one of the most elegant and forcible maiden speeches, perhaps ever delivered in the House, by stating his local knowledge of India as an apology for rising to give his sentiments on a subject of great importance, so very soon after taking his seat. He painted the flourishing condition of our possessions in India, at the commencement of the war, in vivid colours; and said, that every man who knew any thing of that country would support him in asserting, that it was only by the continuance of peace that the prosperity of India could be preserved. It was very generally believed, that our possessions in India were in a state of great prosperity; and to this belief the annual statements of the board of control had very much contributed. Although he could not admit that those statements were correct, he was ready to agree that our possessions in India had been in a state of increasing prosperity for some time past, and that they had never been so prosperous as immediately before the commencement of the present unhappy war. This prosperity was owing solely to peace, and the regular system of government that had been established. While the situation of France was such as prevented her from entering into any project for disturbing the tranquillity of India, it was not to be expected that Tippoo Sultan would attempt any thing unsupported by European aid. Our army was on a better footing than it had ever been before; our government was strong and respected; and there was every reason to look forward to a long continuance of that peace on which the prosperity of our provinces so essentially depended. Yet all of a sudden our golden prospects had been blasted, a war had been commenced, and it was the duty of the House to inquire in what manner, and whether every thing, consistent with the honour of the British name, had been done to prevent it. If the war was founded on justice, he would be the first to support it; if it could be proved to be expedient he had nothing to object: if it could be shown to be both just and expedient, every man must concur in applauding the motives on which it had been undertaken. From all that he knew, from long residence in the country, from all that he had heard since his return, and from all that he had been able to collect from the papers on the table, it was equally adverse to justice and to policy.

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The discussion had nothing to do with the character of lord Cornwallis, of Mr. Hollond, or of Tippoo Sultan. It was confined to the relative interests of the Mysorean empire in India, and our own. It was true that Hyder Ally, the father of Tippoo Sultan, was an usurper; but the rights of the son stood precisely on the same footing with our own. The original possession of both was an usurpation, and was now equally recognized by treaties, and acknowledged by the powers of India. If we professed to make war on Tippoo, on pretext of exterminating an usurper, with just as much reason might he attack us on the very same ground. If we had not governed the territories, of which we had obtained possession, with as much barbarity as he, we had, till very lately, exercised our power, with a disregard to the good of our subjects, truly Asiatic.—In examining the first point, viz. the right of the rajah of Travancore to the forts of Cranganore and Ayacottah, the question was not whether we were bound by treaty to protect an ally in the possession of his ancient territory, but whether we were obliged to support him in the acquisition of new possessions. It was not any part of his ancient territories that Tippoo Sultan had attempted to wrest from him, but to prevent him from acquiring that to which Tippoo Sultan claimed a right, and to which the rajah could claim none. It was, therefore, the ambition of the rajah, and not of Tippoo Sultan, that had been the cause of the war; and that ambition had been engendered by a confidence in our alliance. The question, then, was, first, were we bound to support him in this ambition? and next, was it expedient to do so? A pacific treaty, as the treaty of Mangalore was, could never bind us to support him in what was virtually making war on Tippoo. In his first letter to the government of Madras, he acknowledged that Tippoo laid claim to those forts, and that he was actually preparing to assert his claim by force. Yet knowing this, he proceeded in his negociation with the Dutch, and, contrary to the remonstrances of the government of Madras, actually took possession of them. In such an acquisition, under such circumstances, we were bound by no treaty to support the rajah; and the justice of the case was clearly against the war. If it was necessary to support him, to protect our own frontier, we ought to have done that by restoring the forts, by redressing the injury which a confidence in our power had induced our ally to commit, and showing that our views were to preserve peace by moderation and a strict regard to treaties, and not to provoke a war, by countenancing attempts at conquest. Had our justice led us to do this? Had it led to redress or accommodation? No. Justice had made alliances and treaties; but what were those we had made? alliances of division, and treaties of ruin! It had led us to conclude treaties of extermination and partition, and, in order to revenge an imaginary insult, to light up a flame that must be extinguished by the downfall of Tippoo, and our own ruin. Political expediency might justify a war in some cases, but in those only when our own safety was at stake, and never with a view to conquest. In the present instance, the security of our own settlements was so little concerned as a cause of war, that the success of our arms, instead of adding to that security, must weaken it.—The great powers in India were four: the Mahrattas, the Nizam, the Mysorean, and our own; and the power of the Nizam was so inconsiderable, compared to the rest, that it might be left out of the number. Our own was the strongest; but our dominions were not compact; and the prejudices of the natives, both Hindoos and Mahometans, when not divided by their mutual jealousies, were strongly against us. The rise of Hyder Ally's power was therefore to be considered as favourable to us. It induced the other powers to look to us for that protection which they could obtain no where else, and to enter into alliances with us. Their dread of him, and of his son, was our strength, and it was not for our interest that this dread should be removed. It was obviously our policy to balance them against one another, so as to prevent any of them from obtaining too formidable an ascendancy. By the Mahrattas, Bengal, Bahar, and Oude, from which our revenues were principally drawn, were protected against any incursion by Tippoo Sultan, and so was Bombay. The Carnatic only was vulnerable, and that could be entered from Mysore but by three or four passes, which were easily guarded. Such was our situation before the war. What was it likely to be, should our arms be successful? We should, indeed, be no longer afraid of Tippoo, but we should be much more afraid of the Mahrattas, with whom our only bond of union, the

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dread of a common enemy, would be broken, whose natural aversion, strengthened by education, and fostered by habit, would revive, and we should have exchanged one enemy for another much more warlike; with this essential difference, that we had no second power to bring into play against them, and that our whole frontier would be exposed, instead of being vulnerable through only three or four passes.—With regard to the success of the war, which had been mentioned in very sanguine terms, he did not admit that we had yet obtained any. We were said to have conquered a province; but place it in the balance against the three millions it had cost, and how much would it weigh? Nothing was often more fruitless than victory, and nothing more delusive than the hopes built upon it. He judged of the effect of military operations by their tendency to give peace—the only rational object of war. A long and successful war was a contradiction in terms. Of this we had yet seen nothing, and consequently had obtained no solid advantage. Our movements in India, to be successful, must be rapid and vigorous. Rapid, because the country was soon exhausted; and vigorous, to strike terror into the minds of the natives. On this principle we ought to have marched at once into the heart of Tippoo Sultan's country, to which, at the commencement of hostilities, our principle army was very near, while his was 600 miles distant. Instead of that, we had marched to a distant corner of our own dominions, to attack a corner of his; and the conquest of Coim Catour was a splendid excuse for doing nothing. Of the British army in India, it gave him pleasure to bear testimony. So fine a body of troops could not have been formed of all the armies that had been in India at any former period. From such an army much was to be expected. There were two incidents only (want of provisions, and the sending of detachments from the main body) which could defeat the success of any enterprise in which it might be engaged. To lord Cornwallis he attached no blame. He could judge only from the information transmitted to him by the presidency nearest to the seat of war. There was no man for whom he entertained greater reverence, or whose government had been better adapted to local circumstances, and the general extension of a humane, a liberal, and an enlightened policy. It had been said, that he had only followed the line marked out by his predecessor, and that he had adopted the same mode of collecting the revenues which he found established. This was mere delusion. Systems were valuable only in their application. Goodness was not an inert or speculative quality, but consisted in exertion for the benefit and the happiness of mankind; and this was the difference between the system that lord Cornwallis found in India, and that which he established. His predecessor, Mr. Hastings, had, indeed, laid down admirable plans, one after another, for collecting the revenues, and transmitted them to England; but these were never intended for execution, but to gain credit for his own abilities, under the sanction of which the fell hands of plunder and rapine might be let loose with greater security [The hon. major was here called to order by the Speaker]. He apologized to the House for having said any thing disorderly, and added, that it was not his intention to have said a word of the person to whom he had alluded; but, in doing justice to the character of lord Cornwallis, he thought the strongest point of view in which virtue could be exhibited was, by contrasting it with its opposite. Under his government he had seen the most pleasing sight; the revival of agriculture, the extension of manufactures, the industrious native raising his head from the effects of long-continued oppression, the benign hand of mercy extended only to the innocent, the iron hand of justice seizing only on the guilty, and the subjects of the British government, acquiring, for the first time, ideas of rights and of property. In what he had said, whatever might be the principles in which he had been educated, whatever might be the political opinions he had adopted, he was actuated by no partial motives, but had spoken the unbiassed result of his own experience, and his own inquiries.

Mr. *Wilberforce* said, that although the business in which he was engaged, did not allow him much time for the perusal of the papers on the table, he might flatter himself that he had read them with some degree of accuracy; since he had met with some things, which those who ought to have scrutinized them more particularly, seemed to have forgotten. He admitted that, unless the war was founded on justice, it was wrong; not from any apprehension of giving up the consid-

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tency of his right hon. friend's argument, but because war was necessarily productive of calamity, and ought never to be undertaken, but on the strongest grounds. If any war was just, a defensive war was so, and that this was the nature of the present war, appeared not only from the intention of Tippoo, of which there was sufficient proof, but from his raising troops, and beginning an unprovoked attack on our ally. The doctrine that had been laid down, with regard to personal character, was not well founded in its full extent. Personal character was not to be set up as a justification of positive misconduct, but was always to be considered where information was defective or doubtful. Tippoo's hostile intentions were shown by his conduct long before the present rupture. The forts of Cranganore and Ayacottah belonged to the Dutch, who had held them for more than a century. His first complaint against the rajah of Travancore, was on account of the purchase of these forts, to which he pretended a right, when, in fact, he had none. His second was, that the rajah had suffered certain fugitive zemindars to remain in his territories, although they had been there before the treaty of Mangalore, without any complaint ever being made: and his third, that the rajah's lines were erected on ground that formerly belonged to the rajah of Cochin, his tributary, although the lines were in the same situation in which they had been for five and twenty years before, and especially before the treaty of Mangalore, in which the rajah was included. These were circumstances which the hon. mover and seconder seemed to have forgotten; circumstances most material to be remembered, as they showed the state of Tippoo's mind, and that he only sought a pretext for war. Did he not commence hostilities? not by attacking the forts to which he pretended a right, but by attacking the rajah's house? Who then would say, that the purchase of the forts was the real cause of the attack? After that attack, we were bound by treaty to support the rajah; and if that could not be done but by war, to borrow a principle from the hon. gentleman who spoke before him, what better mode of commencing a vigorous and rapid war, than by pouring upon him the whole force of the country, which the treaties we had concluded enabled us to do? He lamented the calamities of war as much as any man: but when war was once declared, it was humanity to carry it on with vigour. He thought the war justified by necessity, and that it could not be avoided, without sacrificing the faith and honour of the British name in India. The hon. gentleman had afforded him another principle. If our territories were disjointed, it was good policy to preserve our own frontier, which could not be done but by protecting our ally; and if the prejudices of the natives were hostile to our power, the surest way of overcoming those prejudices was, to show a strict regard to the obligations of treaties, and to convince them that those who confided in us might depend upon our protection. Such was the state of the case, as it appeared from the papers. Beyond that, the general presumption was, that such a man as lord Cornwallis would not rashly or wantonly engage in war just before his return; and that he, who had almost purged India from the pollution and contamination that formerly defiled it, would not sully the lustre of his government by an improper act so near its conclusion.

Mr. *Fox* declared, that he had never heard from a person in authority such confused notions, such a juggle as it were of justice and policy, and tenets so far stretched, and so extraordinary, as had been laid down by the right hon. gentleman over against him. He added, that lord Cornwallis had originally taken up the matter in a very proper point of view: he had condemned the transaction relative to the forts in strong terms, in his letters to the board at Madras; but he had afterwards unfortunately altered his opinion. Why, he was at a loss to imagine. He could see nothing like judgment in his having done so. With respect to the hostile preparations of Tippoo, on which so much stress had been laid, it was an argument that scarcely deserved an answer; and though he had heard much hypocritical cant and declamation on the miseries of war, not one word had been said of that part of the India bill in 1784, which provided against the company's entering into any war from motives of ambition or conquest, and which had been copied from a bill of his own. He reprobated the alliance which had been entered into with the Mahrattas and the Nizam, for the extirpation of Tippoo, and the plundering of his territories. It was singular that, at a

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time when the enlightened policy of the nations of Europe had abandoned all offensive alliances, as if ashamed of their having ever existed, we should persist in that disgraceful system in India, a country, where we professed to maintain, and declared that we would maintain, the greatest moderation. The most striking instance of an offensive alliance formed in Europe, had been the family-compact of the house of Bourbon. That compact, so far as it was offensive, was annihilated as soon as a better government became established in France, and he was convinced, that it never would be revived. During the course of his political life, the ungracious and unpopular task of finding fault with the measures of government, had often fallen to his lot; on the present occasion, he was willing to encounter the unpopularity of asserting that we had embarked not only in an expensive, but in an unjust war; a war in which defeat might prove almost as good as conquest, and the most brilliant successes might be justly deemed misfortunes. It was an easy matter for that House, or for another popular assembly, to prove that they were right, and their enemies wrong; but the voice of the public would be heard. What was the language of the advocates for the justice of the war? "Tippoo was the aggressor; we will not rest satisfied with reparation for the particular offence, but we will have—(the right hon. gentleman had almost said) unconditional submission." Did we exact the same unconditional submission from Spain, whom he held out to the rest of Europe as the aggressor in the late dispute? No; for although the offence was flagrant, we only asked for satisfaction. But how had Tippoo become the aggressor in the dispute with the rajah of Travancore? The rajah had purchased two forts from the Dutch, directly contrary to the advice of his allies the English, who certainly would thence have been justified in abaning the treaty with him on that occasion, unless it were to be maintained, that in a defensive alliance, it was in the power of any of the parties to force the other to embark in a war, as the caprice of the moment might dictate. Mr. Fox put the case, that such a treaty had been made in Europe with Prussia, Russia, or the emperor, and, then asked whether, under similar circumstances, it would hold water for a moment? Supposing Spain, being an ally of France, France should have bargained for the Low Countries, and Great Britain and Holland made war on France, from the danger they saw in not being allowed to hold the Austrian Netherlands; would Spain, was it imagined, think herself bound to join France in a war against Holland and Great Britain? We looked at Tippoo Saib's conduct, and did not see the injustice of our own. Tippoo professed to have a right to Cranganore and Ayacottah, and he aimed to recover his right. What do we do? We carry the war into the centre of Tippoo Sultan's dominions, extirpate him, and divide his territories. Might not we with equal justice say, we pretend only to defend our ally, and by a trick we get a case made to turn Tippoo into the aggressor, and then we wage offensive war, with a view to his utter ruin. Mr. Fox declared, he had always entertained a respect for lord Cornwallis's character, and that it was much heightened by what he had heard of his conduct in India; but, in suffering the war to be made against Tippoo, he thought that he deserved more censure than praise. He also ridiculed Mr. Dundas for going so far back in his argument as the treaty of Mangalore, and termed our war both impolitic and unjust, an excuse for which was sought for in suspicions and surmises.

Mr. *Pitt* said, he had often observed, that arguments were used on both sides of the House in support of that view of the question, which those who used them thought sufficient to maintain their reasonings; but which, according to the ideas of gentlemen who entertained different sentiments, rather told the other way; so, on the present occasion, the right hon. gentleman had stated, that his right hon. friend had confounded the two arguments of the justice and policy of the war against Tippoo, and pushed them farther than they would fairly go. It so happened, on the present occasion, that the right hon. gentleman opposite appeared to have confounded the justice and policy of the war, and not his right hon. friend, who had, in his mind, placed the whole of the argument on its true grounds, and cleared it from all the fallacy and misconception with which it had been obscured. Mr. Pitt contended, that we were bound by the sacred faith of a solemn treaty, to act in the manner we had done, and to assist and support the rajah of Travancore in the war com-

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menced against Tippoo. This war had not originated in what the right hon. gentleman called surmises and suspicions, but in acts of hostility committed by Tippoo Sultan against the rajah of Travancore, and as we had entered into a treaty of alliance with him, we were bound to defend him when attacked. It was not, as the right hon. gentleman had stated, that the war was owing to the rajah's having purchased the two forts of Ayacottah and Cranganore, or that we had, on that account, taken a part in it. We had bound ourselves to defend the rajah of Travancore in his ancient possessions; those possessions (the lines of Travancore) formed undoubtedly a part of the ancient possessions of the rajah; and would any human being contend that our flag would not have been tarnished, if, while we were in treaty of alliance and defence of the rajah, we had not supported him? If, as the right hon. gentleman had said, with much ingenuity, with great brilliancy, but not with equal justice, we were to look to our conduct, it would appear more indefensible than that of Tippoo Saib, because if we charged him with having pretended to have wanted to recover the forts of Ayacottah and Cranganore, when in fact his real design was to attack the ancient possessions of the rajah of Travancore, he might charge us with pretending to have acted in defence of the rajah, when in fact our purpose was, to invade Tippoo's dominions, and annihilate his power. If that argument were applicable, it certainly would prove a strong case against the line of conduct we had pursued; but to render the argument parallel, it must be made out that Tippoo Sultan had committed no aggression whatever, and only meditated an attack. But as the contrary was the fact, and Tippoo had committed an act of violence, by attacking the lines of Travancore, could any man affirm that the British name in India would not be disgraced, if we were to let the aggressor pass without some decisive tokens of resentment? But the right hon. gentleman had contended that Tippoo had offered to treat, and that any proposal of an amicable adjustment was preferable to war. Most undoubtedly, any reasonable proffer of adjustment would have been worth listening to; but how did the case stand? As soon as we heard that Tippoo laid claim to the forts of Ayacottah and Cranganore, we sent in a peaceable way to inform him that inquiry should be made into his right to those forts, and if it should appear that Tippoo had a right to them, we would take care they should be restored; and for that purpose we desired that commissioners should be appointed to adjust the same. Tippoo sends a letter, advancing facts in contrariety to the statement of our officers. We thereupon appoint commissioners; he refuses to name any, but desires us to send an ambassador to his court, and thereby humiliate ourselves in the eyes of all India; and even while the negociation is going on, he proves guilty of an aggression. The right hon. gentleman had said, that it had been omitted to be stated, that we first assailed Tippoo, by a sally of the rajah's troops out of the fort of Travancore; but how was that circumstance? Some of the rajah's men go out beyond the lines to clear some thickets, or, as the term of the language was, some jungles, in order that no battery may be erected to play upon the lines; in doing this, they perceive a battery, and are fired upon; they then dismantle the battery, and return. Would any man say, that a power acting with so much appearance of hostility as to have caused batteries to be erected close to the lines of your barrier, might not be so acted against justifiably? Mr. Pitt related the circumstances of Tippoo's conduct in sending his three letters, and before the last could even be received at Madras, making two several attacks on the lines of Travancore, which he carried by his second attack. He took notice of what Mr. Fox had said relative to such a construction of a treaty of alliance with any European power as we had put upon that with the rajah of Travancore. The right hon. gentleman had stated a case of France having purchased the Low Countries or the Austrian Netherlands of the emperor, and asked whether, if we should make war upon her, Spain, being in alliance with France, would feel herself bound to assist France in a war against us. That instance never could apply, because the Low Countries were to remain in the possession of the emperor, under the sanction of a treaty, to which we were the guarantees; but even supposing that there was no treaty in the case, it might, from motives of expediency and self preservation, which amounted to a political necessity, be the policy of this country to make war upon France, with

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a view to prevent her from acquiring an undue ascendancy in the political scale of European power. With regard to the treaties that had been entered into by the East India company with the Mahrattas and the Nizam, which the right hon. gentleman had complained of, because they were offensive as well as defensive, what was the agreement of one country with a second to make war on a third, but an offensive alliance; and how in the nature of things could it be otherwise? Were not all alliances, with some modification, offensive alliances? In answer to Mr. Fox's declaration, that the treaties were grounded on the principle of annihilating Tippoo Sultan, and dividing his dominion, in order to extirpate his power, Mr. Pitt said, there was no such matter in the treaties, nor would he accede to the argument, that conquest would be worse for us than defeat. The whole idea of favouring Tippoo, who was at this time our enemy, in order to balance him against the Mahrattas, who were at present our friends, was a sort of policy which he professed, for one, he did not understand. With regard to the favoured clause in the act of parliament, which the right hon. gentleman had copied from a bill of his own, it was evident that the right hon. gentleman had not lately read it; because, in that very clause, there was a provision for the case which had happened, and, in consequence of the express words of the clause, lord Cornwallis had acted as he had done, by making the treaties with the Mahrattas and the Nizam. Mr. Pitt next took notice of what had fallen from major Maitland, with so much ability, observing, that though the hon. gentleman had first declared that there were but four powers of any consequence in India, the British, the Mysorean power, the Mahratta, and the Nizam, and had afterwards dropped the Nizam, and confined himself to three great powers (the British, Tippoo Sultan, and the Mahrattas), yet there was a fourth of some importance, not joined with the other Mahrattas; and this was the rajah of Berar. —Mr. Pitt having declared that the war was necessary and unavoidable, unless we meant to have been guilty of a violation of public faith, hinted to the House that he was persuaded that Mr. Dundas would not press his motions that evening, but would reserve them for the separate consideration of another day, against which time gentlemen might turn all that they had heard that day in their minds, and consider what had been said upon the subject on both sides of the House, when he was convinced that they would think with him, and agree that his right hon. friend had stated the argument fairly and truly. He signified his determination to move a negative upon the first resolution which was then before the House, because it contained a false statement of a fact.

Mr. *Fox* begged leave to remind the right hon. gentleman, that when he mentioned surmises and suspicions, he alluded to what had passed in 1789, and not Tippoo's attack on the lines of Travancore, which he certainly had never considered as a surmise. With regard to what he had said of one country not being bound by any treaty to support another, under certain circumstances, he would re-state his proposition, that the right hon. gentleman might understand him. If a power acted contrary to the advice of an ally, and a war was the consequence, that ally was not bound to support the former in that war. In the case of Tippoo Saib, he had stated his right to the forts of Ayacottah and Cranganore, and the British government had advised the rajah of Travancore not to purchase those forts.

Lord *Fielding* said, he could not subscribe to the resolutions on the table, because he did not think that the facts would bear them out. He spoke of the nature of all offensive and defensive treaties, and stated that he could not accede to the arguments that had been used respecting them.

The *Solicitor General* observed, that Tippoo Sultan not only had no right to the two forts of Ayacottah and Cranganore, but must have been conscious that he had no right to them, because he had been in treaty with the Dutch for the purchase of them, before the rajah of Travancore bought them, and had offered more money for them than the rajah paid.

The motion was then put, and negatived without a division; after which, the other resolutions were severally read, some of which were negatived, and the previous question put and carried on the remainder.

March 2. Mr. *Dundas*, without entering upon any preliminary observations, read the following Resolutions:

1. "That it appears to this House that the attacks made by Tippoo Sultan on

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the lines of Travancore, on the 29th of December, 1789, the 6th of March, and 15th of April, 1790, were unwarranted and unprovoked infractions of the treaty entered into at Mangalore, on the 10th day of March 1784."

2. "That the conduct of the governor-general of Bengal, in determining to prosecute with vigour the war against Tippoo Sultan, in consequence of his attack on the territories of the rajah of Travancore, was highly meritorious."

3. "That the treaties entered into with the Nizam on the 1st of June, and with the Mahrattas on the 7th of July, 1790, are wisely calculated to add vigour to the operations of war, and to promote the future tranquillity of India; and that the faith of the British nation is pledged for the due performance of the engagements contained in the said treaties."

Mr. Dundas having moved the first resolution, which was seconded by Mr. Pitt,

General *Smith* rose and remarked, that, in consequence of having most attentively examined the papers upon the table, he was now convinced of the justice of the war, and of the policy of the measures which had been adopted; nor could he reflect upon the last, without adding that the system of government pursued by earl Cornwallis stood, if possible, even higher than it was before in his opinion. In order to form a just idea of the intentions of Tippoo Sultan, and the principles upon which he acted, it was necessary to take a retrospect of his former conduct. From the papers it would appear, that it was his determined resolution to attack the lines of Travancore. He had summoned the fort of Cranganore to surrender. There could be no doubt that the Dutch had a right to sell these forts, and that the rajah was fully at liberty to conclude the purchase. Perhaps, however, it might be thought that the British government ought to have been consulted in the conduct of this transaction: and if, in this respect, there appeared any omission, or any want of proper deference, he was more willing to impute it to the influence of some mistake, than to any intentional neglect or disposition to offend. The conduct of Tippoo was insidious, and plainly indicated a desire to seize upon every pretext of quarrel, and a determined resolution to commence hostilities. Whilst he was collecting his forces, and preparing for action, he wrote a letter to the rajah of Travancore, complaining of the purchase of the forts, and stating his right to their exclusive possession. When he had received an answer on these points, which left him no longer any room for complaint, and deprived him of every pretext for asserting his right, he had recourse to a second expedient. He trumped up a story of an encroachment on his boundaries, on which to found a further pretext of quarrel, and justify his resolution to commence hostilities. Nothing can be conceived more clear, precise, and temperate, than the answer of lord Cornwallis to the letter of Mr. Hollond, which contained an account of the transaction. He proceeds with the greatest caution; he makes every necessary provision for the situation of affairs, and requires every proper information, before he should form his resolution, or adopt any definitive line of conduct. He was firmly persuaded, that if Mr. Hollond had written, at that time to Tippoo, that war would have proved the consequence of an attack upon the lines, he would have desisted from his attempt, hostilities would not have taken place, and the present calamities would have been averted. Much had been said concerning the nature of civil and military government. Had the government in India been military, Mr. Hollond must have been tried by a court-martial for disobedience to orders. Mr. Hollond's letter appeared to him unintelligible. After the conduct pursued on the part of Tippoo, he talks to him as if he was pacifically inclined, and perfectly disposed to observe the treaty, and mentions the attack of the lines, of which he was the author, as a circumstance which must have happened without his orders or concurrence. For such language, at such a crisis, he owned he was entirely at a loss to account. The defence of the lines of Travancore appeared to him of equal importance with the defence of the walls of Madras. Travancore was the most material of all passes. If it should fall into the hands of Tippoo, the Carnatic lay immediately open to an invasion, and the whole of our possessions in that quarter became entirely within his power. Besides, the attack on the lines was a breach of the treaty; it was an insult to the honour of a great nation. The security of our settlements in the East depended as much on character as on force. At present, we

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were respected; but in order to preserve that respect, it was necessary that we should act with vigour. There was no doubt that justice formed the first principle of action; but it could not be denied that resistance to insult was also necessary. On these principles, he was of opinion, that no other part could have been acted by lord Cornwallis, than that which he really pursued: and, however he might join with him in lamenting the calamities with which the war was attended, he still must give his approbation to the motives from which it had originated. War, in the circumstances of the country, appeared to him necessary and unavoidable.

Mr. *St. John* remarked, that however great his regard might be for the personal character and private virtues of lord Cornwallis, he could by no means concur with resolutions for approving of the present transactions in India, on which an expense of millions, and the lives of many thousands, might yet be dependant. Much of the evidence which had been produced to justify the resolutions, appeared to him foreign to the question; and from the strictest attention to the papers on the table, he had been led to form a full and deliberate opinion, that the war at present carried on in India was impolitic needless, and unjust. Before he should proceed to state his reasons for this opinion, he would point out the defects of the evidence which had been brought forward on the other side. It had been asserted that Tippoo had, for several years, entertained intentions of attack. This assertion depended on the faith of a Subadar of the rajah of Cochin, who had been in the camp of Tippoo, and whose evidence, as he must have entered into his service for the purpose of betraying him, was not entitled to much credit. Had Tippoo entertained a previous intention of attack, might it not be supposed that he would have put his armament on a much better footing? Mr. Powney's letter of the 4th of January says, that Tippoo's army consisted only of 12,000 regular troops, 16,000, irregular, and 6000, cavalry, and that his inactivity after the action of the 29th of December could be attributed only to his wanting means to accomplish his plan. Subsequent intelligence did not lead Mr. Powney to alter that opinion; for on the 17th of January he writes that, from the general tenour of intelligence from Tippoo's army, he was of opinion that Tippoo came ill provided both with guns and ammunition. The rajah of Travancore himself gives a similar account of the strength of Tippoo's army. He begins his letter of the 1st of March to general Meadows by saying that Tippoo had, two months before, attacked his lines with an army of 15,000 men, so that it could not be affirmed that he had collected a numerous and regular force from a previous intention of commencing attack, and it was more probable that he had only acted from the operation of circumstances. All the arguments, then, adduced to prove his previous intentions of hostilities, from the circumstance of his having in readiness a formidable army, amounting to 100,000 men, fell to the ground. Nor does it appear, from the letters to lord Cornwallis, that he had any intention of attacking the lines previous to the purchase of the forts. Let it then be considered in what circumstances these forts were purchased. The Dutch sold them merely to get rid of a dispute. The rajah of Travancore had only purchased a disputed right. The letter of the council at Cochin indicated a suspicion of their own right as they said that they supposed it unnecessary to to enter into the question of the dispute, the very point which, of all others, it was most incumbent for them to explain. He would read an extract from a letter which contained a history of these forts. They had been the subject of dispute between Hyder Ally and the Dutch: Hyder Ally had got possession of them, which he retained after an accommodation had taken place with the Dutch, but having afterwards evacuated them, they were again garrisoned by the Dutch. This information was confirmed by the third report of the secret committee, of which the right hon. gentleman was the chairman. That report gives an account of the treaty which Mr. Hastings had concluded with Mr. Ross, the director-general of the Dutch company in Bengal in 1781. The preamble to which treaty states, that the Dutch forts on the coast of Malabar, were actually then attacked by Hyder Ally. It therefore appears, that, for many years past, the right to possess these forts had been disputed between the Mysore government and the Dutch. What, therefore, the rajah of Travancore purchased was this dispute. But supposing that the right to possess these forts had never been disputed between the Dutch

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and Tippoo! even when the rajah of Travancore could not have been entitled to the support of the British government in that purchase, as he had acted contrary to their advice. The only treaty we had with the rajah of Travancore was purely a defensive one; we were not therefore bound to support him in any new acquisitions. In Europe, we have a defensive alliance with the king of Prussia. Let us suppose that monarch was to express to his majesty's ministers a wish to purchase from the king and republic of Poland the city of Dantzic; let us suppose also, that his majesty's ministers expressed a decided disapprobation of such a transaction: that they represented that such a measure would unavoidably give great umbrage to the empress of Russia, and that a war with that powerful state would be the certain consequence; if, notwithstanding these representations, the king of Prussia was to conclude that purchase, and in consequence be led into a war with the empress of Russia, with what propriety could he call on Great Britain for support? If he were to solicit our assistance his majesty's ministers would tell him, and if they did not parliament would, that the national faith was pledged to defend him if he was attacked, and not support him in any new acquisitions he might make. But even supposing that the rajah of Travancore had suffered an injury, ought we at first to have had recourse to war, in order procure redress for that injury? Certainly not: we ought first to have tried the effects of negociation. The conduct which had been pursued by his majesty's ministers, in the late dispute with Spain, had not been forgotten. An insult had been offered to the British flag; an injury had been done to our commerce, force was collected, armaments were prepared; yet reparation was sought only in the course of a long and protracted negociation, and, at last, obtained without any necessity of employing warlike operations. Had a similar plan been pursued in India, the same happy consequences might have been the result. It had been stated, that the British nation would be degraded by sending an ambassador to Tippoo; but how could this measure be attended with any more degradation than the embassy of Mr. Fitzherbert? If we were to go to war for a point of honour like that, then

> "Honour's but an empty bubble,
> "Fighting still, and still destroying."

The first letter of lord Cornwallis had stated that he could not support the rajah in his purchase, and if he persisted in retaining it, he must abide by the consequences. Such seemed to be the result of his own judgment. But afterwards either from the instructions of the board of control, or from his own idea that the revolution in France presented a favourable opportunity for exterminating Tippoo, as he could not then receive support from his French allies, he had adopted a different line of conduct. The present situation of the affairs of the East India company was certainly by no means favourable to war. They had engaged in it with the incumbrance of a debt of sixteen millions. Loans of money had been advertised for its support at Fort St. George, at the rate of 10 per cent. interest, and at Fort William at the rate of 12 per cent. No person could deny that a war, conducted under such circumstances of expense, must be ruinous in its consequences. The army of general Meadows was supported at an expense of 240,000*l.* per month. The remaining detachments, under the command of col. Hartley, col. Kelly, &c. could not be computed at a less sum; so that the whole expense amounted to six millions a year. The credit of the East India company was connected with the credit of the nation. In several of the expenses which it had incurred, it was countenanced by the nation, and it could not be doubted, that in defraying these, it must be supported from the same quarter. It ought, then, to be considered whether approbation should be given to measures attended with such expenses, which ultimately must fall on the nation. It ought to be considered whether such a sacrifice of expense should be made on a point in which the interests of the East India company were alone concerned. The present war in India, it had been admitted, was the result of misconduct; and they were now to determine whether that misconduct ought to be supported at so dear a rate. It had been objected to Mr. Fox's India bill, and falsely objected, that many of the prerogatives of the Crown were put into the hands of the commissioners appointed by that act; but when Mr. Pitt proposed his bill, it was argued that the board of control were mutually invested with the power of making war or peace, and that even without the concurrence of either the king or parliament; but when that argument was used,

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it was little thought that events would so soon show how well it was founded. All we can do now is, to lament the many calamities which this exercise of power in the board of control will bring on our possessions in India, and the heavy expenses which the British nation will have to bear. He could by no means concur with a resolution of approving measures in a transaction, which he deemed impolitic, unnecessary, and unjust, and productive of such mischievous and dangerous consequences

Colonel *Macleod* said, that lord Cornwallis had, for four years, been engaged in serving his country, in a climate not the most favourable to health. During that time, he had brought the affairs of government into the most flourishing situation, and had established the state of credit upon a footing highly respectable. He was just upon the eve of returning, when a cruel and treacherous tyrant, a determined enemy of the British name, began, by his hostile attempts, to embroil the affairs of India. How does lord Cornwallis act upon this occasion? He foregoes his own prospects of ease and retreat: he undertakes the management of public affairs; he faces the storm, and assumes upon himself the whole responsibility. Some had praised lord Cornwallis at the expense of his predecessor: but his merits needed no foil: he was not under the necessity of adopting the maxim of those who, when they entered upon the government, departed, in every thing, from the practice of their predecessor, and thought proper even to reverse the head on the coin, a maxim which at present, to many gentlemen in this country, might be an object of hopeful expectation At this part of the speech there was a cry of "chair! chair!" when the Speaker reminded the hon. member that the subject now under consideration was the conduct of lord Cornwallis, so far as it related to the present war in India, and that there was no occasion to introduce any mention of his predecessor, or any insinuation which was perfectly foreign to the question.

Colonel Macleod, having apologised, proceeded to state, that the power of the Mahrattas was not, as had been suggested, likely to be rendered too formidable, so as to destroy the balance of India, by any diminution of the power of Tippoo. The Mahrattas, in their present state, were not at all dangerous. They were divided into two parts perfectly distinct. There subsisted between themselves a number of little discussions and divisions of interest. Before they could become formidable, it was necessary that they should unite. But this was less probable, as the principal part of the Mahrattas was governed by five chiefs of equal power, each of whom it was necessary should consent to any declaration of hostility. Among this number we always had it in our power to secure such a degree of influence as would prevent the probability of such an event. It had been stated, that the character of Tippoo ought to be laid aside in considering the present question. So far from agreeing with this opinion, he regarded it as the main hinge on which the discussion depended. He was an implacable and inveterate enemy of the British name; inveterate from religion, inveterate from ambition, and a restless desire of conquest. His enmity to the British was not less strong and rooted than that of Hannibal to the Romans, and could not be gratified till it had effected their utter destruction. Great as the expense was which had been incurred this year, he could not answer but that a great armament would prove necessary to be maintained at the same expense every year, till Tippoo should either have received some effectual blow, or be altogether crushed. As to the argument that had been urged, of attacking Tippoo at a time when he could not be supported by the French, if such was one of the motives of the war, he did not see how it was not perfectly fair to take the advantage. It had been said, that another motive of the war was, to divide his territories. Such a partition among the princes, who now languished under his tyranny, would be an event highly desirable. If it was considered that Hyder Ally had dispossessed the Hindoos of a territory extending no less than 500 miles, it would certainly appear an act of justice to restore the native princes, who had, in consequence of the usurpation, been reduced to the greatest distress and extremity, to their original dominions. The Zamoren, whose court had once boasted so much splendor and magnificence, had come to his camp, and in what situation?—to beg a little rice for his own support, and that of his family. He, it may be supposed, was not insensible to

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the distress of the royal supplicant, and did not fail to give him a specimen of British generosity. The movement of general Meadows had been censured, as tending to protract the war. He, from his local knowledge, could affirm, that the general had moved in the exact line which he ought. By those who censured his movement, it was not considered that the object of the war was, first, to protect the rajah of Travancore, and secondly, that the southern part of our settlements was the most defenceless and exposed; the general had planted himself in such a situation as to afford a security to both. By this time he hoped that he was in the middle of Mysore. Indeed, from the situation of our army, and the wisdom of the measures that had been employed, he had no doubt of our speedy success.

Mr. *M. A. Taylor* said, that, not an hour since, he had received a written statement from Mr. Hippisley, who had been taken ill on the Monday night's, debate, and who was still incapable of attending in his place—that the statement appeared to contain arguments which his friend had meant to urge in support of his motion, and also observations on what had fallen from other gentlemen in the first night's debate. Having received them, he was a little at a loss how to proceed; he could not offer them to the House as his own speech, but if the House indulged him by allowing him to read the paper in his hand, he hoped likewise, that, after what he had said, he should not be debarred, as a member that had spoken in the debate, from giving his opinion after he had read the statement of his hon. friend. Mr. Taylor paused for the opinion of the House.

Mr. *Cawthorne* conceived, that as the hon. member had sent his speech, it ought to be read by the clerk.

The *Speaker* rose and observed, that he considered the hon. gentleman as perfectly in order, when he proposed to read a paper that he had received from another hon. member, as part of his speech; and he doubted not, but if the hon. member was inclined to offer his own sentiments afterwards, that the House would readily hear him.

Mr. Taylor then proceeded to read the following

STATEMENT COMMUNICATED BY MR. HIPPISLEY TO MR. M. A. TAYLOR.

Mr. Hippisley requests Mr. Taylor to express his mortification at being obliged, from illness, to leave the House on Monday last, without going through the statements and observations, which it was his duty to make in consequence of his original motion. That from what had passed he was anxious to state the fullest justification of his motives and opinions, especially with respect to our allies the Mahrattas and Nizam. The extracts which he had read in his place on Monday, proved that those opinions were not novel or unsupported, and that they had relation not merely to the period of contention between the Madras government and the king's minister, but, in fact, involved the declared and fundamental policy of the company, ever since the establishment of the British power in the East. As to personal motives, Mr. Hippisley wished to observe, that when he originally gave notice of the motion, it was without the privity of a single individual; that afterwards he thought it his duty to communicate it to his right hon. friend (Mr. Fox), with whom it was the pride and pleasure of his life to act; and that it was not till he came down to the House on the day of his first motion, that he mentioned the subject to another hon. friend, who obligingly offered himself, and so ably seconded the inquiry; on this ground, Mr. Hippisley thinks he may stand acquitted of any factious combination to harass the measures of those gentlemen who are entrusted with the direction or control of our Asiatic interests. Mr. Hippisley holds no distinguished office to pledge (as a right hon. gentleman had done) for the sincerity of his wishes to preserve the peace of India, yet he trusted to have credit for equal anxiety with that gentleman, when he avowed to the House, that the greater part of his property was embarked on the bottom of the East-India company:—with such a stake, he could have no view or wish but to see the company happily extricated from its embarrassments, and to enter with temper on a discussion, which involved so deeply not merely the interests of the East-India company, but which hazarded so large a portion of the general revenue of the nation.

Whatever observations he conceived it his duty to make on the facts before the House, he hoped nothing would bear the construction of illiberal imputation to the noble lord who was at the head of the

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supreme government, or the hon. general who has the executive direction of the war. No man could be impressed with a deeper conviction of their honour and integrity; but honour and integrity will not always exempt us from fallibility. From the evidence of the papers on the table on the 14th of June, the rajah of Travancore informs the government of Madras of the approach of Tippoo against Cranganore, which he says belongs to the Dutch, of whom Tippoo demanded possession; that there was a treaty between the rajah and the Dutch—that he saw the necessity of defending it, and asks troops of our government. Without waiting for the approbation of the English government, and pending the issue of Tippoo's demand of the Dutch, the rajah purchases (on the 31st of July) this controverted title, and with it, in fact, buys the war. Here must be fixed the original aggression, which, *vi termini*, is the first provocation. The attack of the lines, five months afterwards, is to be considered as the consequence or resentment of the aggression. It is not till the 4th of August, the resident (Mr. Powney) states to she government of Madras, that the rajah had just informed him that he is on the point of concluding the purchase of Ayacottah and Cranganore. Mr. Powney adds, "the rajah, by the defence of these places, should they now be attacked, cannot be considered as the aggressor of hostilities, for they become a part of his possessions, as he would have been, had he rendered the assistance he intended, when they belonged to the Dutch." The intention, at least, of such an aggression is proved to have been in the rajah's contemplation by his preceding letter of the 14th of June. On the 10th of August the rajah himself informs the government of Madras of his new purchase; that from his engagements with the Dutch, it is highly necessary he should prevent them falling to an enemy, and demands more troops, "as no doubt the news has reached Tippoo." On 17th of August, the government of Madras disapproves of the purchase, and informs the rajah, that it must irritate Tippoo, and appear as a collusive purchase; and farther that the rajah is not to expect the support of the English government, in any contests in which he may engage, beyond the limits of his own territories." In reply to the governor, the rajah resorts to a deliberate falsehood. He asserts the purchase to be made by the advice and approbation of sir Archibald Campbell." Sir Archibald's positive contradiction lies on the table, and the deserved reputation of captain Bannerman exempts him from the least possible imputation.

It is to be observed, that by the preceding letter of the 10th of August, the rajah demands troops to defend him, as, "no doubt," he says, "the news of his purchase has reached Tippoo." On the 3rd September (after the governor's disapprobation), he says, "Why should I wish to purchase these places, if it was likely to be the cause of contest?" Still the same duplicity. The rajah avows, that, for two years, his object has been to possess Cranganore, &c. This object could have been no secret to Tippoo Sultan, and a sufficient motive to excite his watchful jealousy. Recurring to nearly the same point of time (two years since) we find the rajah then first applied for two battalions to be stationed in his country. Sir Archibald's motive in granting them was, in this instance, as ever, the best; the rajah evidently had a motive which he did not choose to avow to sir Archibald, viz. that the British troops, stationed as they were at Paroor (the nearest point to Cranganore, and close on the borders of Tippoo's dominions), should impress Tippoo with an opinion that the British government countenanced his project. —On the 18th August, the governor of Madras communicates the rajah's apprehensions to Tippoo. Tippoo replies, the 12th September, that "the rajah's having taken possession of Cranganore, &c. with the consent of the Dutch, it being built on his circar, would occasion trouble; that he therefore begs the governor to recommend the rajah to deliver them back to the Dutch." Tippoo also complains of the rajah giving shelter to certain fugitives from his circar. He professes every desire to adhere to the treaties with the company; and in a subsequent letter he encloses those of 1769 and 1784, in which the rajahs of Travancore and Tanjore are included, the former stipulating, "provided they are not the aggressors." On the 20th December, Tippoo sends a vakeel, or a minister, to the rajah, insisting on the evacuation of Cranganore: that he should not give refuge to the rebellious subjects of Mysore; and farther, that he should destroy the lines erected on the countries of his vassal, the rajah of Cochin. "The vakeel is stated to have made these demands with some insolence: but it must

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be recollected, that near five months had elapsed since the rajah took possession of Cranganore, &c. pending the issue of Tippoo's original demand of the Dutch, without showing any disposition to evacuate it, as Tippoo had been led to expect, by the first orders of our governments. The rajah, in his vindication, states the right of the Dutch to alienate, not being dependant on Cochin: that his boundary has been erected 23 years, in consequence of a grant of the Cochin rajah, prior to his becoming tributary to Mysore; that he has given orders to Tippoo's subjects, who had fled to him, to retire themselves, and that he had referred every thing to the Madras government. On those assertions, and contra-assertions, Tippoo and the Travancore rajah are at issue; nor is it necessary to have recourse to all the repetition of correspondence. The rajah resorts to the Dutch government for their testimony; they, of course, sustain their title, but it is by a bare assertion only; and they are so obviously involved with the rajah, that they are in effect one and the same interest. We must recollect too a strong hypothetical passage in a letter of the Madras government, 17th February, viz.—"If credit is to be given to the Dutch government, no tribute was paid; but this is a point that will be very difficult to ascertain by any written documents."

To ascertain this point farther, Mr. Hippisley, after his original motion, thought it his duty to make inquiries at Amsterdam, how far the assertion of independence was to be assumed as a fact. His correspondent found the Dutch extremely reserved; but they admitted that, previous to our last war in 1780, Hyder Ally took possession of Cranganore, and garrisoned it, "as being a place from which they could annoy him much." That on the war breaking out, he evacuated his garrisons on the Malabar coast, to employ his force in the Carnatic; that the Dutch and French being soon after united with Hyder against us, the Dutch then slipped into Cranganore, and re-garrisoned it; that Hyder took umbrage at this step, but negociated with them, by the mediation of the French; that the Dutch now sold it to get rid of the negociation, and to avoid the consequences of Tippoo's being too near them. Mr. Hippisley can rely on the authority of his correspondent, who adds, "you may safely advance this fact in parliament," and it goes to prove, at least, that the demand of Tippoo is not a recent assumption, nor his jealousy of a recent date.

It must be recollected, too, that Tippoo had justly other ground of resentment against the Dutch government of Cochin; for at the moment a separate peace took place between the Dutch, French, and English, the Cochin government instantly supplied warlike stores to colonel Fullarton's army, to act offensively against their late ally, Tippoo Sultan.

That Cranganore was originally taken by conquest from the Portuguese, is true; but we know not what concessions may subsequently have been made by the Dutch, with a view to extend their trade with the country powers, or to acquire farther districts in its vicinity. In a case of property, our courts would certainly reject all such evidence as has been adduced, as insufficient to substantiate a title. Where the alternative of deluging with blood some of the fairest provinces of India, is opposed to the expedient, at first wisely suggested, of relinquishing the purchase, how much more cautious should have been our decision! The testimony of Mr. Powney, the resident, is also adduced; but Mr. Powney probably had access only to such materials as the rajah chose to supply him with. Mr. Powney, too, is led into different opinions, with respect to the same facts. On the 1st of September, he states, that the importance of Cranganore, &c. to the rajah, is very considerable, and the safety of his country depends on their not being in the hands of an enemy."—On the ——— he says, "that Cranganore, &c. will be found, upon examination, to be very inconsiderable, and not acquisitions worthy of serious competition." Mr. Powney also states (1st September), "that the rajah of Cochin has only been for twelve years past a tributary to the Mysore chiefs." By the testimony of the Cochin rajah himself, he acknowledges being obedient to Mysore twenty-four years, that is, from 1766. Tippoo asserts the dependancy of the Cochin government for fifty-four years; nor does he consider that the admission by the rajah of Cochin of a specific tribute since 1766 only, as controverting this assertion; Tippoo himself, in his letter of the 24th December, referring to this testimony of the Cochin rajah, in refutation of the assertions of the rajah of Travancore. The rajah of travancore asserts his grant from the rajah of Cochin to be

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twenty-five years standing, no doubt taking the longest period. This borders so closely on the admission of the Cochin rajah, that, setting aside the more ancient claim of Tippoo, it excites suspicion, at least, of a collusion between the two rajahs and the Dutch, of which Mr. Powney, with the best intentions might have been made the dupe. Tippoo asserts (24th December), that the rajah of Travancore, notwithstanding the certainty of the Cochin rajah being a dependant of his circar, keeps a guard of 200 men at his house, and suffers none to approach him, without his (the Travancore rajah's) consent! and the whole correspondence shows, that he is a creature at least of the rajah of Travancore. It is admitted, that half the Cochin country lies within, and to the southward of, the lines erected by the rajah of Travancore, and that Tippoo has not access to his vassal, however refractory, but by passing those lines. The attack of the lines of the 29th December, was not till five months after the rajah took possession of Cranganore under this collusive purchase; that attack is expressly and spontaneously disavowed by Tippoo Sultan, by his letter of the 1st of January, to the governor of Fort St. George, and accepted as such. It also appears, by the letter of the 17th of February of that government, "that the conduct of Tippoo Sultan since that period (viz. 29th December), had been conformable to such disavowal; for though his army was still encamped near the lines, nothing hostile had been committed against them." In the case of Falkland Islands (where we were principals), a disavowal on the part of Spain was accepted as a reparation, with which the honour and dignity of the nation might be satisfied. On the 1st of March, the rajah of Travancore informs the government of Madras, "that Tippoo had continued quiet till that day, when his (the rajah's) people advanced beyond the lines (or boundary of his country), in order to destroy certain preparations said to be making for a battery, and that an engagement took place." It is admitted, that Tippoo was preparing his means to be ready for an attack;—five months had elapsed since the rajah's possession of Cranganore;—the attack was at length made, and the lines carried by Tippoo, who razed them;—and having all the Travancore country open to him, he remained some weeks on its borders, without attempting any thing against the rajah's old possessions, but destroying Cranganore, only afterwards returned to Combatour.

With respect to the negociation proposed by the government of Madras, general Meadows objects to the reply of Tippoo, "that our commissioners should be sent to him." The general observes, "that if such appointment were to take place, it would be highly improper, and lessen the consequence of the company's government in the eyes of the princes of this country." We must recollect, however, that Tippoo was then on the very spot fittest to have the preference for the examination of the facts in dispute. We must recollect too, that when we were principals, and our honour more at stake, we had no scruples to send a member of the Madras government to negociate the peace of Mangalore at the durbar of Tippoo Sultan. Such, too, had been almost the invariable practice of our governments. When Tippoo left the confines of Travancore, and returned to Combatour, he then proposed to send a person of rank to the general, but this was also rejected. The general was soon after in possession of all the rich country of Tippoo, under the Southern Hills; admitting the provocation by Tippoo, and that a just retaliation was our object, we had then amply avenged our offended honour, by conquest, and were free to negociate, without risking the attack of his passes, for the event of which we now stand in awful expectation, The best answer that may be given, and the true one, probably, is, that general Meadows found his line of conduct had been prescribed by the Bengal government: and thus hampered, as we evidently were, by our new treaties, we could not, without exciting jealousy, have negociated a peace; when, by the express articles of those treaties, our allies were not yet entitled to a participation of our conquest: we were to wait for the protracted depredations of our allies, that they might share with us in the spoils. If it is said that Tippoo had first recourse to arms, the reply may be given from the best writers on the law of nations, "That it is not the first military action, but the usurpation of another's right, or the denial of justice, which denominates the aggressor, and evinces the first commencement of hostility." The laws of nature and reason give no right to have recourse to force, but where mild and pacific measures are ineffectual.

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Of the proceedings of the supreme government, it will be sufficient to observe, that by their letter of 29th August, the governor and council resolve, "that the contest, even if attended with the utmost success, cannot prove advantageous to our affairs in that country." On the 13th November they resolve, "that of whatever importance Cranganore and Ayacottah may be to the Travancore country, it cannot be opposed to the serious consequences of a war." In the same letter, nevertheless, they resolve, "that if the independent right of the Dutch can be ascertained, the transfer of those places to the rajah shall be maintained and defended." On this issue the Bengal government fix the necessity of engaging in a war of so little promise, independently of any attack made by Tippoo on the ancient dominions of Travancore, and under all the circumstances of the rajah's intrigue and duplicity on the face of their records! The government of Madras, on the contrary, invariably persist in their opinion, "that the honour of government ought not to have been committed in the defence of places furtively obtained, and that the conduct of the rajah had been rash, imprudent, and unwarrantable, on every principle of policy and justice."—On the 12th of February, the governor of Madras observes to lord Cornwallis, "that as far as he can form any judgment, it is not Tippoo's intention to break with the company; he probably feels himself injured by the conduct of the rajah of Travancore; that it rests with his lordship to consider how far such conduct may be consistent with the respect he owes to government, or with the law of nations; that it appears to him a very important question, and from the late letters received from Tippoo Sultan, there is every reason to think that he will be disposed to a negociation for the adjustment of the points in dispute." Whatever may be the general merit or demerit of Mr. Hollond's government, this fact is confessed, that a more intelligent company's servant does not exist in India: and such was his reputation, when the court of directors thought him the fittest person to fill the chair of Madras.

The latest advices from Bengal, (on the printed papers) is from lord Cornwallis, of the 8th of March, who thinks it "good policy to exact severe reparation from a prince, who avows so rancorous an enmity to the British nation." It were sincerely to be wished that he had no cause for such enmity. Tippoo is stated to be cruel and vindictive! Has he no ground of complaint of us? Let us recollect the detail of an officer present at the capture of Ananpore, in the Bidenore country, by the Bombay army, under general Matthews, "four hundred women, *" this officer represents, "bleeding under the bayonet, either dead, or expiring in each other's arms, the soldiers committing every outrage on their bodies!† Can we forget the circumstances of our violation of the capitulation of Bidenore itself? It is painful to refer to the transaction, and to the unhappy retribution exacted of the unfortunate British general! Lord Cornwallis also, 8th March, observes, "that Tippoo can expect no assistance at present from the French." In fair courtesy, however, we may suppose the French also to sympathise with their ally, though possibly not in a condition immediately to assist him: still, "Manet alta mente repostum!"

It is contended that the armament of Tippoo (exaggerated by a subahdar deserter to 100,000) must have been drawn together for greater objects than the possession of Travancore. Lord Cornwallis himself, 15th December, offers the best reply to such loose assertions, when he cautions Mr. Powney, "not to give way to the rajah's fears, or to credit implicitly the buzar reports of Tippoo's intentions." That Tippoo had collected a large force, it is true, and he might have various objects for employing it. We see by Mr. Powney's letter, (6th June) that he had been in the Calicut country among the Nairs, a powerful, resolute nation in the vicinity of Cranganore, whom neither Hyder nor Tippoo could ever effectually subdue. "The Nairs," says Mr. Powney, "were again troublesome, as soon as he left that quarter, and he has been under the necessity of sending Lally with 4,000 men to quell the disturbances." The Corga nation had also cut off two of his battalions. In the same letter Mr. Powney states, that the Travancore minister is of opinion that Tippoo's designs are against Cranganore and the possessions of the Dutch. He farther states, that the Travancore and Cochin possessions

* It appeared that the account in the Annual Register had been grossly exaggerated by one of the officers.

† Vide Annual Register for 1783.

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are so intermixed, that in attacking the one, he cannot avoid encroaching on the other. How is Tippoo, then, ever to obtain redress of his tributary? In a letter of Mr. Powney (without date) but on the consultations of Madras, as far back as the 6th June, he says, that "when Tippoo was moving against Cranganore, the rajah had sent a body of his troops to reinforce the Dutch possessions." This was anterior to the rajah's purchase, and certainly in itself was a just provocation to Tippoo Sultan.

It was said by a right hon. gentleman, (Mr. Dundas) that if Tippoo pushed his conquests into Travancore, there would be an end of our possessions in the Carnatic, and major Rennell had been quoted, to prove the danger of Tippoo's possession of Travancore. Major Rennell, indeed, says, that "a cursory view of the map will show how hurtful to the interests of the Carnatic such an accession of territory must prove." Major Rennell is a perfect classic (in every thing with respect to Bengal, the scene of his personal labours), but of the southern coasts, he confesses, he takes every thing at second hand. A view of the map, without knowing the local, proves nothing; and nothing can be clearer, in fact, than that Tippoo's possession of Travancore, and the safety of the Carnatic, have not the least relation to each other, unless it can be proved advantageous for Tippoo to make a circuit of 4 or 500 miles from his present territories (which of course would be the seat of his strength) to march through a narrow pass, from Travancore to Tennevelly, at the extremity of the Peninsula (which may be defended by a few hundred men) in preference to a direct descent from the Dandigull, the Carour, or the Namcull countries, divided only by an imaginary land from our own territories; in short, from the whole line of his southern territories, flanking the Carnatic, which is perfectly open to his depredation, and where not a single pass interposes. Let this answer, therefore, be given to such ill-grounded apprehension, viz. that the value of the acquisition of Travancore is, in the precise ratio of its square acres, unaccompanied by any other political consideration whatever!

A different answer is to be given to the position, stated also by the right hon. gentleman, "that Cranganore is of no earthly consequence to Tippoo, but with a view to annoy Travancore, and that Tippoo cannot possibly himself be annoyed from thence." The answer indeed may be the same in part as far as this supposition arises too from an ignorance of the local. The lines may be attacked with equal, if not superior effect, from any other part of the country, which for an extent of 25 or 30 miles from the sea to the mountains, is open to attack. From Cranganore, a river (and a considerable one) must be passed to approach the lines. At Ayacottah, which is in an island, you are still north of the lines, and after getting through them, another river is of course to be passed. In the whole extent eastward, few of those difficulties occur, and Tippoo had free space to make his approach (as he did) with success. Cranganore was evacuated long before Tippoo carried the lines; he was therefore free to have made his attack from thence, if he had not thought another position more eligible.

We may appeal to a cursory view of the map to show Cranganore in another view. Major Rennell will inform us, that the only level and easily accessible gap in the vast line of mountains from the north to the south of India, is at Palicacherry (a fort which was not taken by the last accounts, but which was carried in 1782 by a most gallant coup de main of major Maitland, under the auspices of colonel Fullarton). The command of that pass is, in a military view, the first object to be obtained in a war with Mysore, for it is the only means of preserving a free communication from coast to coast. The river Paniane is often navigable for the carriage of stores the greater part of the way; the access to this pass, both to the east and west, must ever be guarded with a watchful eye:—Little more than twenty miles from the fort of Paniane (and the mouth of the river) is Cranganore. Must not then the possession of Cranganore, be an object? It is obvious that the possession of every yard of ground within that range, parallel with the Palicacherry pass, is a very important object, of which Hyder was ever jealous, and which jealousy is justly inherited by Tippoo Sultan.

Extracts from private correspondents to the latest period of advice have been read, and in general they are better clues than the public records, to ascertain the real state of facts. That the war is in a great degree popular in India must be admitted; our just prejudices against

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Tippoo Sultan will weigh much; but there is still a stronger prejudice in favour of war. The personal interests of individuals (civil and military) connected with the manifold employments created by war and conquest! The interest of the company's servants and their constituents is not always reciprocal. Under all the impression of such prejudices, the information of individuals (high in office, and of great probity and discernment) confess the ruinous expense already contracted, and the utter insufficiency of all our Indian resources to protract the war. What a perspective is held out by the official proposals of our government to borrow, at an interest exceeding, by the half, the ordinary rate of the company's loans, at 12, instead of 8 per cent. and scarcely any thing to be obtained even at that interest. We are jealous that the powers of India should look up with awe and veneration at the magnitude of our power, and the extent of our resources, at the same moment we declare ourselves bankrupt by public advertisement!

A right hon. gentleman (Mr. Dundas) proposed to lay aside all estimate of expense for want of materials; yet reasonable inferences may be drawn from pre-existing facts. A letter has been read, from the most correct authority, which states, that 90 lacks pagodas, or 900,000*l.* sterling, had been received at Madras (from Bengal chiefly, it is supposed) between February and September last, adding these forcible words: "If this war continues a few months longer, we shall be completely ruined:" The war in effect had then scarcely commenced. This sum had been exhausted with all the current funds their own establishment could command, with the appropriations to investment, half reduced in Bengal, and wholly at Madras, on which so large a portion of our revenues at home depend, and which assuredly may awake the attention even of every country gentleman from the Orkneys to the Lizard! Add to this the accumulating debt of every department; of the commissaries and contractors in the field; of the garrison paymasters and store-keepers, who during war receive but a very slender portion of their balances. Combine these circumstances, and the result will be, that the amount to this date may be very moderately taken to equal the national equipment preceding the late convention. To direct our estimate in some degree, at the probable expense, if the present war exists, we may look back to the monthly expenditure during the last, conducted under the vigilance and integrity of a government which can never be surpassed (lord Macartney's). The heads of the departments of expenditure are now in England, and agree with Mr. Hippisley, that the current monthly military expense on the coast, at that period, made up with the arrears, could not be, on an average, short of six lacks of pagodas, or 240,000*l.* per mensem. Our army in the field then not exceeding half the present force, and when all the exertions of government could never command a third of the necessary supply of draught and carriage; the battalions in garrison every where infinitely short of their complement, from the early calamities which befel us.

Contrast this view with our present highly-appointed force! The armies of general Meadows and colonel Kelly, amounting to near 30,000 men. Our cavalry (a great but necessary source of expense) treble the amount in the last war, and our draught and carriage cattle, it may be presumed complete, and infinitely exceeding any statement we have yet seen. If they are complete, however, we are to thank the forbearance of Tippoo Sultan, whose first object must have been a descent on the Carnatic, if he had ever meant seriously to provoke us to hostility. The Carnatic was open to him; all our crops, our very existence, was on the ground in the months of December, January, and February. He suffered us to collect them and with them our draught and carriage cattle; nor can the assertions of deserters, of rajahs, and their ministers, or the hazarded conjectures of higher authority, be opposed to so conclusive a proof of his pacific disposition with respect to the English. With the evidence of so large a British army, increasing from the period of the last peace, the appointments of military governors, and incessant military preparation, Tippoo Sultan must be allowed to have also his suspicions of our ultimate object, and consequently to be on his guard in point of preparation. His subjects, in the vicinity of Tillicherry, were in formidable rebellion, as we have seen by the records; he might have suspected their communication with our factory at Tillicherry, and might be disposed to prevent it, by stationing posts on his frontier.

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And here may be recollected the assertion of a right hon. gentleman in reply to Mr. Hippisley's original motion, viz. that Tippoo himself replied to the bearer of a letter from Tillicherry, "That he would return the next messenger shorter by the head." It is now in proof by major Dow's letter on the table, that such an answer was given, not by Tippoo Sultan (who probably never heard of the transaction), but by the padashaw (an officer) stationed in the neighbourhood. It is to be observed, that those facts stated from Tillicherry are near twelve months anterior to the sailing of the Houghton, yet no consequences result from them, nor are they considered by our governments as meriting attention. In October, 1787, an European serjeant in the service of the company, seized a large escort of merchandize on the road from the Mysore country to Pondicherry, which he carried into the garrison. Mr. Hippisley was on the spot, and witnessed the judicious conduct of the chief of Cuddalore, who, by his instant explanations with the government of Pondicherry, averted the impending storm by a disavowal, at a moment when we considered ourselves on the eve of a war both with Tippoo and the French. This is mentioned in justice to the gentleman (Mr. Lewin) who, in October, 1787, presided at Cuddalore; and to show that judicious negociation and temper are powerful instruments to avert impending mischief, or a resort to the *ultima ratio regum!*

But to return to the subject of probable expense. If the before-stated premises are admitted (and they certainly may be with truth), the current monthly military expenditure on the coast cannot be less than double of that which was contracted last war, viz. 12 lacks of pagodas, or 480,000*l.* per month, including our armies in the field, and all the military departments of the garrisons. Add the expenditure of the Bombay army our possible requisitions of auxiliary horse from the Mahrattas and Nizam at our cost, as stipulated by treaty; and where is the expense to terminate? It is a fearful anticipation! In a word, compare our exigencies with our resources, and it presents a perfectly new scene even in India at the commencement of a war of choice! A situation so distressful that we were not even reduced to any thing similar during any period of the last war. Lord Cornwallis himself, 29th of August 1789, says, "that the contest, if attended with the utmost success, cannot prove advantageous to our affairs;" and general Meadows, on the 14th August, 1790, observes, that it would be economy at any expense to shorten the war, for we must be undone by procrastination."

Of our new treaties with the Mahrattas and the Nizam, Mr. Hippisley wishes, after the censure already passed on his opinions, chiefly to shelter them under the records of the company which have been read. From the representation of a right hon. gentleman (Mr. Dundas) one might be led to conclude that the Mahratta states had been almost swallowed up by the conquests of Hyder Ally and his son. From the latest authority (colonel Fullarton's memoir) dividing the region of India into 114 parts, something less than one belongs to the Mogul and his adherents. To the rajah of Travancore, one; to Tippoo Sultan, including Cudapah, 8½; to the English and their allies, 28; to the Nizam, 5¼; to the Mahrattas, including Berar, 48. Since which Scindia has made large and rapid conquests! The right hon. gentleman will not enter into the idea that the Mahrattas can be entirely confederated against us. It has happened: it may again happen. The Mahrattas claim a tribute from our Bengal provinces as well as the Carnatic. They have never relinquished the claim; and opportunity alone is wanting to favour the demand! Scindia (whom the right hon. gentleman will certainly include in our late treaties, though he has not been pleased to distinguish him, in argument, from the shadow of the Poonah government) is in effect the arbiter of all the Mahratta states, by the latest accounts. And one of our most experienced officers says, by the last advices, "that Scindia is now without a rival, his mind still vigorous, and may probably extend his dominion over the rest of Hindostan proper, and become formidable yet to the English." Major Rennel also observes, "If Scindia proceeds with his conquests of the North and West, such a new empire would, perhaps, prove more formidable to Oude, and to British interests in consequence, than any power we have beheld since the first establishment of the British influence in India." To this point Scindia is approaching very fast. He has formed his army under an able European general: has lately obtained the greatest decisive victory

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over Ismael Beg, and pursues the steps by which Hyder Ally arrived so rapidly to the extent of his power, but under much more promising auspices!

Mr. Hippisley will here close the observations he could wish to have made in person where his duty calls him. The premises appear to resolve into these corollaries, viz. 1st, That the original aggression was made by the rajah's taking possession of Cranganore and Ayacottah. 2d, That if so, the first attack of the lines (had it not been disavowed by Tippoo Sultan) was not an aggression which, *vi termini*, is the first provocation), but the consequence or resentment of an aggression. 3d, That even if Tippoo's act was an aggression, it would not justify our entering into a war without leaving a door open to accommodation. 4th, That if the object of the war be to extirpate Tippoo, and to divide his countries between us, the Nizam, and the Mahrattas, the success of the war in obtaining such object might eventually be injurious to the essential interests and hazardous to the ultimate security of the British empire in the East. From these conclusions, Mr. Hippisley meant, if able to move the resolutions which he was obliged to devolve on his hon. friend (Mr. Francis), who urged them with so much strength of argument, and under all the conviction of local experience, though unfortunately so little to the conviction of the majority of the House.

Mr. *M. A. Taylor* having finished reading Mr. Hippisley's statement, declared, that it gave him great concern to trespass upon the indulgence of the House, and expressed his conviction that gentlemen would believe that what he had done proceeded from the duty he owed to a friend; and that being now discharged, he thanked the House for the attention he had met with, and as he was up, would offer what he had to say on the present motion. The present war in India he considered in a high degree imprudent, impolitic, and, above all, unjust; this opinion he thought himself perfectly at liberty to state. Much had been said about giving opinions freely concerning men of high rank and character; but on subjects of great national importance, when great names must necessarily be mentioned, he thought sentiments might be very freely expressed on the question, without any sort of disgrace to the names mentioned. Nor did he conceive that opinions given by any humble individual like himself, could possibly affect lord Cornwallis in any improper way. Nothing could be more distant from his intention and his wishes. The question now before the House had no connexion with the character of lord Cornwallis or Tippoo Saib—the vices of the one, or the virtues of the other, though an hon. gentleman had enlarged much upon them, and from the character, no doubt a just one, that he had this night given of Tippoo, he was not a little surprised that the same hon. gentleman should have enjoyed his company so much as he had stated on a former occasion. However the contrasting of characters in that way, put him in mind of a learned counsel, who, pleading in a cause, opened his case by stating the virtues of his client, and the vices of the adversary; and concluded by saying, that still, if the devil was his adversary, he hoped justice would be done to him. Mr. Taylor then insisted that the war had been provoked entirely by the misconduct and rashness of the rajah of Travancore, which he thought was completely proved by the different papers on the table, particularly by the letter of Mr. Hollond to the rajah of Travancore, advising him to relinquish the purchase he had made, as it must be offensive to Tippoo Sultan, and would inevitably bring on a war; which advice, however, it appeared that the rajah had totally despised. Certainly, the rajah was the cause of this war breaking out, and though an ally of ours, the treaty of alliance was by no means of a nature that obliged us to support him in an unjust and unwarrantable war. The treaty of Mangalore went expressly to protect the rajah of Travancore against any encroachments that Tippoo might make upon the Travancore territories, and to replace him in case any of his dominions were wrested from him; but it by no means went to countenance or encourage any attack by him upon Tippoo, or any collusive bargain that he might make with the Dutch, which militated against Tippoo Sultan, far less to extirpate him from his dominions, as the hon. gentleman stated his wish to be. —As to the act of parliament which was intended to prevent our governors in India from making war upon frivolous, or even strong pretences, it appeared to have been reprehensibly disregarded; for surely encouraging a continuance of the existing war, was acting diametrically opposite to the prohibitions of that act of parlia-

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ment. Mr. Taylor adverted to an expression of the hon. general, that the consequence and power of this country in India, was to be kept up by character, rather than by arms: in this he perfectly agreed; but certainly the present measures did not arise out of that system; on the contrary, as far as he could see, they only would, if followed out, degrade the British character, and be productive of the most calamitous and disgraceful consequences both in India and at home. A minister of this country held out to that House, and to the nation, that our possessions in India were in a prosperous and flourishing condition, merely on account of the tranquillity that prevailed; and that by a continuance of a peaceful system, they must flourish still more. How, then, with any kind of consistency, could that right hon. gentleman give a vote of approbation and thanks for bringing on, and continuing a war, when he could be no stranger to the distressed state of the finances of our different governments there?

Mr. *Francis* rose and said:—The form in which the right hon. gentleman has introduced his propositions, entitles me to consider this debate as an adjournment from the last. He offers them to you without argument, and leaves them to stand or fall by the impression which his speech on a former occasion must have left upon your mind. He takes it for granted, I suppose, that, when the House refuses to condemn, it is bound of course to approve. This is not a necessary consequence. But, before I enter into the general subject, I beg leave to take notice of some things which I have heard in the present day's debate. An hon. colonel (Macleod) not content with concurring heartily in the proposed extirpation of Tippoo Sultan, would be very glad to see it extended to all the Mahometan princes of Hindostan, with every one of whom, by-the-bye, we are in particular friendship and alliance. He says that they inherit all the ferocity of their Tartar ancestors; that they are cruel and ambitious; and that we shall never be quiet while any of them are left. Whereas the Mahrattas are of the soft Hindoo disposition, a mild, humane, inoffensive people, and the most peaceable neighbours we could desire. I should have thought that even Tippoo might have expected more mercy from that hon. gentleman, considering the personal civilities he has received from that prince. But I deny the fact. The Mahometan princes, if the idea of moderation and conquest may be permitted to go together, were the most moderate conquerors that have appeared in the world. They settled in the country; they were soon melted by the climate, and have blended and assimilated with the manners of Hindostan. The princes of the house of Tamerlane are distinguished in history by the mildness of their character. The Mahrattas, on the contrary, have been, for almost a century, the constant disturbers of the peace of India. They are invaders and conquerors by profession. They are so on principle. They claim as their right one-fourth of the revenues of the empire, which they call the Chout, and they inforce their pretensions whenever they have an opportunity. The hon. gentleman says, it is probable that our gallant army is now ascending the Gauts, and on the point of penetrating into the heart of Tippoo's country. This is the 2nd of March. General Meadows says, that, "on the 1st of October last, he would if possible, march to attempt the Gauts." The event ought to have been determined five months ago. If the attempt is still to be made, the war is procrastinated, and the general assures us, that, "we must be undone by procrastination." I can by no means concur in the arguments urged by an hon. general officer near me (general Smith) though I am far from asserting that a military officer cannot, in the nature of things, be a good civil governor. That extreme would be as absurd as the other. He says, that sir Archibald Campbell's letter does not amount to a positive denial of his having advised the purchase of the two forts from the Dutch;—that sir Archibald speaks from memory only, and expresses himself in cautious and doubtful terms. The hon. gentleman sees the difficulty. He cannot remove it, and therefore he fairly leaps over it. He cuts the knot which he cannot untie. Sir Archibald's words are, "I can venture to affirm from memory, that I neither countenanced nor advised the rajah in the purchase; on the contrary, &c." To put this matter out of all dispute, I am at liberty to inform the House, that I have seen a letter from sir Archibald's secretary, which positively asserts, that sir Archibald never gave the consent imputed to him, directly or indirectly. I do not recollect the secretary's words, but I can assure the House, they were

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the strongest that could be made use of, and Mr. Hippisley has the letter. Now, Sir, I ask the hon. gentleman once more, this plain and very material question, Does he, or does he not, believe that sir Archibald Campbell speaks truth? The hon. general says that, if Mr. Hollond had been a military governor, he might have been tried and punished by a court martial for disobedience of orders. Nothing but martial law will do now. Such is the bias of habit and education on the most honourable minds. Sir, I hope that civil governors are not beyond the reach of very sufficient punishment, though they cannot be tried by the articles of war. If such offenders escape, it will not be for want of a proper tribunal, and an effective jurisdiction over them, but of proper vigour in the government. A right hon. gentleman (Mr. Dundas) said in the last debate: "Would to God Mr. Hollond had executed the orders he received with as much punctuality as Mr. Powney: I most solemnly believe it would have prevented the war." I intreat the House to take notice of that declaration. The disobedience alluded to consisted in Mr. Hollond's "not having acquainted Tippoo, that the governor-general in council had determined to assist the rajah in the defence of the forts if it should appear upon investigation that the Dutch did possess an independant right to dispose of them." This information, it is said, was suppressed by Mr. Hollond; whereas, if it had been communicated to Tippoo, it would have prevented the war.

It is no business of mine, Sir, to defend Mr. Hollond. Suppose him guilty of the omission imputed to him; let him answer for it. Tippoo Sultan, by some means or other—by the treachery of your own governor, if you will, is uninformed of a fact, of which he ought to have been apprized, which you believe, if he had known it, would have prevailed with him to desist from his intentions, namely, that you had determined to assist the rajah. To put him in the wrong, to entitle you to consider him as an enemy, it was necessary, on your own principles, that he should first have known your resolution. But he was never informed of it; then he was not in the wrong; then you were not entitled to declare war against him. The hon. general says, that the English dominion is to be preserved by character as well as force. I say so too. But how? First by establishing a character of justice; and then, by never unnecessarily hazarding the reputation of your arms. It stands chiefly upon character. Take care how you keep it. The checks you met with in the last war with Hyder Ally and the Mahrattas ought to warn you of the possibility of defeat. I do not believe that Tippoo will encounter us in front; but you know nothing of India, you know nothing of the nature of his power, if you believe it to be impossible for him to distress if not ruin you in detail. The hon. general, through the whole of his speech, seems to date the war from the attack of the lines on the 29th of December, 1789, as if no previous provocation had existed, as if the rajah's right to possess himself of the two forts was out of all dispute. He says that, if he had been governor of Madras, he should have thought it as much his duty to have defended the lines of Travancore, as the walls of Fort St. George. Agreed. And so should I, if the rajah had been contented with the possession of his own country; and if Tippoo had become the aggressor by attacking his territories without provocation. The question is, not whether we ought to defend Travancore, but whether we shall support him in making new acquisitions. Even now I would save him from destruction; but, as I know him to be the aggressor, I would oblige him to replace every thing in its former state, and make satisfaction for his aggression. A right hon. gentleman (Mr. Pitt) has ridiculed the idea, of maintaining a balance between the Hindoo and Mahometan powers in India. He says, we have nothing to fear from a union of the Mahrattas; that their chiefs are now too great and independent; that each of them looks to his own establishment; and that if the present government of Mysore was destroyed, they would have separate interests, and balance one another. I hope that right hon. gentleman is better acquainted with the politics of Europe than he appears to be with those of Hindostan. I do not say, that the chiefs of the Mahratta empire will always act offensively together. But, in the general scheme of their dominion, in the common principles of their religion, they have a bond of union, which will for ever prevent their taking an active part against one another. Nor are they to be trusted, when they pretend to be at variance. We know it by experience. In

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the course of the last war Mr. Hastings did every thing in his power, and much more than in prudence he ought to have done, to engage the rajah of Berar to take part with us against the Mahratta government at Poonah. He said, "that a natural enmity must ever subsist between those powers, and that the latter was, by interest and inclination, likely to join in an alliance with our government." To excite his ambition, if possible by a dazzling object, Mr. Hastings offered to support his pretensions to the supreme government of the Mahratta empire. The rajah in return gave us plenty of fine words. But what was the end of it? Our excellent friend Moodajee Boosla, sent an army to the frontiers of Bengal, which kept us in check for a considerable time, and at last was bought off by a large sum, I think not less than 300,000*l.* on conditions, which this House has pronounced to be "most extravagant and dishonourable."

The right hon. gentleman has repeatedly asserted that the present war did not originate from the transfer of the two forts by the Dutch to the rajah of Travancore but from some other remoter causes. This transaction, you will observe, was concluded about the 7th of August 1789. Long before that period, he says, there had been clear indications of the hostile intentions of Tippoo against Travancore, and of his determined resolution to invade and conquer the whole country; that his preparations for that purpose had been made many months before, and that the affair of the two forts was nothing but a pretence set up to cover and promote his real design. I have examined the evidence on your table with the utmost care and cannot discover the slightest ground for these suppositions. The facts, whatever they were, from which the present inference is drawn, must have been known to the hon. gentleman by the end of that year, or the beginning of 1790. I shall prove to you that, on the 31st of March 1790, he knew as much of them as he does now, and that they did not then suggest to him any of the ideas, which he professes at present. On that day, in opening the India budget, he assured the House, "that he thought he did not entertain too sanguine expectations, when he concluded that the tranquillity of India was not very likely to be soon disturbed." Sir, I do not expect that you should rely on my recollection of the hon. gentleman's words, though I perfectly remember the assertion. I take them from a record which I believe he will not dispute;—from a printed copy of his speech, written, I have no doubt, as well as spoken by himself. Besides the calculations, which are stated at length, the arguments are too minute and accurate to be drawn up by any hand but his own. No other human memory could have retained them. No printer of a newspaper could have delivered them in that form. I should not have said so much on this point if it had not been very material to the present subject, to establish the authenticity of the speech to which I allude. There is a particular passage in it, which I beg leave to read to you: "One great and leading circumstance, on which both the increase and permanency of prosperity in the British dominions in India, as well as our prosperity at home, depended, every man must see was the continuance of peace, and when he looked round and considered the situation of other European nations, especially our connexion with Holland, he thought that he did not entertain too sanguine expectations, when he concluded that the tranquillity of India was not very likely to be soon disturbed; and confident he was that no apprehension need be entertained from any of the native princes in India, so long as he followed the course which we were now pursuing, and persevered in the path of moderation, according to the present system.—He must prove a daring governor-general indeed, who could so far venture to disobey instructions from home, as rashly to pursue a different course, and contrive to render it the interest of the native princes to unite and form a combination against us. Such an event we had, however, not the smallest reason to fear. We knew that there was one ambitious and aspiring prince in India, possessing all the rancorous spirit of his father, the object of whose life it had been, if possible to extirpate the British name from India; to guard against whose attacks, however, our present establishments were amply sufficient. Additional circumstances had recently occurred, which still further rendered our establishments more than adequate to the preservation and security of our possessions;—need he refer to the circumstances of the evacuation of Pondicherry, a tolerably strong symptom that France had no present views to be suddenly our rival in India. Another matter, equally satisfactory,

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was the opportunity afforded us of lessening very considerably our establishments in Bombay, arising from the king of Travancore (the oldest friend to the English name in India) having sent a requisition for a body of our troops to cover the frontier of the kingdom of Travancore, and to be paid by him. This measure would supersede the necessity of our establishment at Tillicherry, and enable us to lower those of Bombay; one great object of that establishment having been for the purpose of defending the borders of the Mysorean country."

Observe, Sir, that on the 31st of March 1790, when he knew that the king of Travancore had sent for a body of our troops, when he must have known every one of those steps taken by Tippoo in the beginning of 1789, from which he now infers the hostile intentions of that prince, and from which he now dates the war,—on that very day he gave his opinion to this House, "that the tranquillity of India was not likely to be soon disturbed," no, not even by that ambitious and aspiring prince, whom he charged at the same time with a general determined enmity to the English. To date the war from any acts of Tippoo, preceding the transfer of the forts, and unconnected with it, is to contradict his own declaration in this House. To say that those acts were not indications of hostility, and were not the origin of the war, would be what I contend for and affirm is the truth, that the collusive acquisition, made by the king of Travancore of two forts in Tippoo's country, is the true and only cause of the war. I leave it to the hon. gentleman to adopt which side of the dilemma he thinks proper.

But there is other evidence before you, which puts it out of all dispute, that the war has no connexion with any operations imputed to Tippoo, before the transfer of the forts. A most important letter from lord Cornwallis to the Nizam has been laid this afternoon upon your table. Very few gentlemen have had an opportunity of reading it: but it well deserves the special attention of the House. This letter is dated the 7th of July 1789, and is referred to in the treaty with the Nizam, and declared to be equivalent to a treaty. There is an air of mystery on the face of it, little suited to that description. If it be a treaty, it ought to have been explicit; if, as it professes, it be strong and efficient upon the English government in India, equally so as a treaty in due form could be, it should have left nothing to inference and conjecture. I do not however mean to deny that the true meaning of the letter is not sufficiently obvious to any man who considers it. It appears plainly enough that lord Cornwallis had been solicited by the Nizam's vaqueel to enter into an offensive alliance against Tippoo. That prince is evidently the person meant and alluded to, though never once named in the letter. Lord Cornwallis agrees to grant the Nizam two batallions of seapoys and six pieces of cannon, in the terms of an old treaty, existing upwards of twenty years, the execution of which is yet unclaimed; but he grants this on the express condition, that it shall not be employed against certain powers of India, specified in the letter, viz. the Peshaw, Ragojee Boosla, Madajee Scindia and the other Mahratta chiefs; the nabob of Arcot, the nabob vizier, and the rajahs of Tanjore and Travancore. The only chief of any consequence, whose name is omitted, is Tippoo Sultan. This mode of designation by ommission is in my mind the strongest indication of a determined object, that can be imagined. The letter assures the Nizam, "that, should it hereafter happen, that the company should obtain possession of the country mentiontioned in these articles (viz. of the treaty of 1768) with his highness's assistance, they will strictly perform the stipulations in favour of his highness."—The country alluded to, is the Carnatic Balagaute, which has been possessed by Tippoo and his father now above three and twenty years. The stipulation is, to take it from him, at some future period. Why not now?—because, as lord Cornwallis says,—"the company are in the full enjoyment of peace with all the world;"—because, "his highness (the Nizam) must be well assured that, while treaties of peace and friendship exist with any chief, negociations, that tend to deprive that chief of any part of his possessions, unprovoked on his part, must naturally create suspicions in his mind, unfavourable to the reputation of his highness, and to the character of the company, since the only grounds, on which such negociations could be carried on, rest on a treaty existing upwards of twenty years, the execution of which is yet unclaimed; and since no provocation has hitherto been made to justify a breach in the present peaceable and amicable understanding between each other."

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I shall not enter now into the many serious reflections, which this extraordinary declaration suggests. The only inference I draw from it at present is, that lord Cornwallis did not consider any of those acts or preparations of Tippoo which took place in the beginning of 1789, and from which the right hon. gentleman dates and originates the war, as a provocation that would justify us in a breach of the peaceable and amicable understanding then subsisting (viz. on the 7th July, 1789) between us and Tippoo. Lord Cornwallis no where looks farther back than to the acquisition of the forts. Even that he condemns; nor does his lordship consider Tippoo as at war with the company, until he hears of the attack of the lines on the 29th of December. If any part of Tippoo's conduct, at an earlier period, had furnished an opportunity to charge him with an aggression, I think I have a right to conclude, from the general spirit and tendency of the letter, that it would not have been neglected. On the 7th of July, 1789, lord Cornwallis declares positively, that Tippoo had given no provocation.

The personal terms of reproach with which the sovereign of so great a kingdom as Mysore is constantly treated, in my mind, does no credit to the gravity and dignity of our councils. Such language is never permitted between princes, and particularly at the awful approach of war. Even among individuals, who have any respect for themselves, or who think themselves entitled to the respect of others, the terms of civility are never more studiously observed than at the very moment when they are going to hazard their lives against each other; and this is a rule not only of decorum, but of prudence. Personal invectives savour of passion, which should never be admitted into great deliberations. What purpose can they answer, but to aggravate and inflame the real cause of quarrel, to lay the foundation of deadly hatred, and to make a sincere reconciliation impracticable? The day may come, when your interest may oblige you to make peace with Tippoo Sultan. Will you then pass over the insolence and violence of his character; his violent and ambitious spirit, his total disregard of the faith of treaties? Or will you, as you ought to do, refuse to enter into any treaty of peace and friendship with an insolent and cruel enemy, with a rancourous tyrant? The language of your government binds you to extirpate Tippoo Sultan. With such an enemy, you can make no pacification that will not be dishonourable to you.

I understand, from public report, that the court of directors are preparing to send out 500,000*l.* in specie; and that a larger sum is to be remitted by individuals, on a speculation of the advantage to be made of the money in India, or of the return by drafts on the company. Let it go how it may, the specie is lost to this country, and when it arrives in India, will hardly be felt as a relief. Such and so enormous are the expenses of the war. The investment on the coast was totally stopped by orders from Bengal. The money, intended for China, was taken out of the ships, and the Bengal investment reduced from ninety to sixty lacks of rupees; a great and serious calamity to the country. The provision of the investment is the principal channel, by which a portion of the revenues returns into circulation. In whatever degree you reduce the amount, you cut off the source, you destroy the seed of your revenue. These, and borrowing money at 12 per cent., are the funds, with which you begin the war. Is any man here able to say, with what resources it is to be carried on? A wise government may talk of its honour, but it must take care of its existence. I have no objection to popular language in a popular assembly, provided you do not suffer it to enter into your councils. Have we really "received the most gross insult that could be offered to any nation," because the lines of Travancore have been attacked? What, though the act was immediately disavowed! Or, does "good policy require that we should take this opportunity to reduce the power of Tippoo?" The policy would have been as good without the insult, if it be true that "we have every prospect of aid from the country powers, whilst he can expect no assistance from France." These are not objects, in my opinion, nor are there any objects, for which a wise government should hazard the preservation of the state. Does the prospect of success entitle you to abandon your principles; to renounce your pacific system! to make war for the acquisition of territory? Will you give the encouragement of parliamentary approbation to measures which even legislative prohibition has not been sufficient to prevent? These are the real questions which you are called upon to decide.

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Mr. *Joddrell* entered into a detail of all the circumstances relative to the purchase of the forts since the commencement of hostilities, and justified that transaction, because he was of opinion that the rajah of Travancore was perfectly competent to have negociated that purchase from the Dutch, without obtaining the consent of the British government at Madras.

The first resolution being put and carried, the second was moved. Mr. Fox conceiving the resolution, whether true or false in itself, to be unnecessary, moved the previous question. Mr. Pitt said, that the question having been once agitated, it was necessary that it should be completely settled. The previous question was negatived, and the resolution put and carried. Mr. Dundas then moved the resolution approving of the treaties.

Mr. *St. John* entreated the House to pause, before they came to a vote of approbation on treaties, with the contents of which they were not fully acquainted. By an article in each of these treaties, it was stipulated, that none of the contracting parties should accept of any terms of peace without the consent of the other two. Gentlemen must see that this was an article which put the conclusion of peace in a great measure out of our own power, and left it at the option of the Nizam and the Mahrattas to what extent the war should be prosecuted. It would, therefore, become the House, to consider well the probable consequences, before they gave a solemn sanction to treaties for carrying on a war, over which neither the executive nor the legislative power of the country would have such means of control as to put an end to it, when it should seem advisable so to do, without an express violation of those very treaties.

General *Smith* said, he had not sufficiently considered the treaties to have made up his mind as to the policy and prudence by which they were dictated, and therefore he could not vote for them, nor would he give them his negative.

Mr. *Francis* intreated the House to pause, and consider what they were going to do, in declaring that the faith of the British nation was pledged for the due performance of the engagements contained in the treaties with the Nizam and the Mahrattas. Do you mean to establish that, whenever the India company's authorized servants in India make a treaty with any of the country powers, the British nation is bound by it? Is the nation bound, *ipso facto*, by acts done by the company's servants, without a commission, without powers, without instructions or authority, without even the knowledge of the government at home? It is a new principle, I believe, in our Indian system, and may lead you very far. But, in the instance before you, do you know what you are pledged to? You say to the due performance of the engagements. Do you know how much you are to pay for the ten thousand horse? or will you bind yourselves to conditions, which are to be settled hereafter?

Mr. *Dundas* said, he had ever thought that all matters relative to a subsisting negociation, or papers concerning a war actually existing, were matters foreign to the consideration of parliament, and that it had been the invariable rule to rely, in all such cases, upon the executive government, who were responsible for their conduct, for a due performance of every thing necessary for the better carrying on of the war already commenced, till a fit opportunity offered, when their whole conduct might safely be brought under investigation. When, therefore papers and treaties, immediately connected with the war, in which we were at that time involved in India, were called for by that House, he had no other expectation whatever respecting those papers, but that the production of them must end in one of these two circumstances—either a vote of censure of lord Cornwallis, or a vote of approbation. To let the subject come under discussion, and to leave it a neutral question, without its being brought to one of those two conclusions, would have been highly dangerous, and the worst use might have been made of such a procedure in India. In this case, a doubt had been started during an existing war in India, by persons of great weight and authority in that House upon the justice of the war, and the policy of the treaties made with the Mahrattas and the Nizam, and upon the ground of that doubt, certain resolutions condemning the war, and censuring lord Cornwallis for having entered into it, had been submitted to the House. Those resolutions had been rejected, some by being negatived, and others by moving the previous question; but that was not enough; they all knew in what manner every thing that passed in that House on the subject of India, was treated without doors; it became there-

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fore necessary to appeal to the authority of that House, to apply an antidote to the poison, and by a vote, manifest to the world, that the House were decidedly of opinion, that there was no ground whatever for any such doubt as had been started; that they thought the conduct of lord Cornwallis, in having entered into that war, highly meritorious; and that they approved of the treaties entered into, in direct conformity of the act of parliament, for the purpose of carrying on the war with vigour; and that they readily plunged into it to support their allies.

Mr. *Fox* having premised that the right hon. gentleman had called upon them to take the sense of the House, if they disapproved of the motion, added, that this was a matter which depended on a very different principle. It was fit to take the sense of the House, when the question meant to be supported could receive any assistance by so doing, and not fit to take it, when the case was otherwise. As to the tendency of the treaties with the Mahrattas to enable us to carry on the war with vigour, he would not go into the question then, but he should not hesitate to declare that he doubted how far a House of Commons could, with any sort of propriety, touch on a treaty, the whole of which was not before them. It was obviously unwise and impolitic, to make the power of concluding a peace depend on three instead of one. By the treaty, we stood engaged to the Mahrattas, and also to the Nizam. If Tippoo, therefore, should be ready to offer terms sufficiently reasonable to make it a desirable thing for us to conclude a peace, it would not be in our power, but must depend on the pleasure of our allies. In fact the whole of this business, from the beginning to the end, was a kind of shuffle, to evade our pacific professions, and yet appear to adhere to them; for which purpose we seemed to take the principle of extreme injustice, under the pretence of extreme justice. We were bound to keep good faith; and when all our expectations from the war were answered, we should be forced to continue it, under all its enormous expenses, because we stood promised to the Mahrattas, and to the Nizam not to conclude peace without the mutual consent of the three powers; for their sakes, therefore, we should be obliged to exterminate Tippoo, and to go on till the ambition and rapacity of our allies were fully glutted.

Mr. *Pitt* expressed his surprise that the right hon. gentleman, in speaking of the treaty had chosen to pass by its main object—the enabling us to carry on the war with vigour, and to state that reasonable terms were desirable, and yet he complained that we had entered into a powerful alliance. The right hon. gentleman, therefore, forgetting, that being able to carry on a war with vigour was the surest means of obtaining reasonable terms, to gain those reasonable terms, would place himself in a state that would render those reasonable terms unlikely to be offered; that was all the ground he conceived of the right hon. gentleman's argument; and surely it must be allowed, that the best way to arrive at a speedy peace, or to obtain an offer of reasonable terms was, to enable ourselves to carry on the war with vigour. With regard to what the right hon. gentlemean had said of the difficulty that would be thrown in the way of peace, in consequence of the objections of our allies, that was to take an extreme case, in order to make out an argument that could have little or no validity; because, if a desirable peace was to be had, and our allies upon improper grounds, refused to concur in it, we certainly should not hold ourselves bound by the treaty. But as to the article stating that peace should not be made without the mutual consent of the subscribing parties, he would call upon the right hon. gentleman to state if he had ever heard of an offensive treaty, entered into for the express purpose of carrying on a war which did not contain such a condition?

Mr. *Fox* replied, that he believed there were several treaties which contained no such condition, unless the attainment of the specific object was named in it as the terms on which peace might be concluded, without the consent of the allies, and that, he believed, was the general nature of offensive treaties; but he would ask the right hon. gentleman, if there was no difference between a treaty entered into with the Mahrattas and the Nizam, and a treaty entered into with an European power? There certainly was a very material difference. As to the absurdity of arguing, that reasonable terms were desirable, but that he would rather be without the means of carrying on the war with the vigour that the treaty was likely to afford, he confessed himself guilty of that absurdity; for he had no scruple to own, that he should prefer terms of peace

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somewhat reasonable, to the concluding such a treaty of partition. The way in which the right hon. gentleman had laid down the principle that we were not to be bound by the treaty, if, when we wished for peace, the Mahrattas and the Nizam obstinately refused to accede, rather surprised him. He should himself be inclined to act in that manner, but he should not have expected to have heard such an argument from the right hon. gentleman, who had laid so much stress upon the sacred faith of treaties.

Mr. *Pitt* said, he had stated that in case of either of our allies introducing unreasonable objections, when peace could be concluded, the treaty might be considered by us as no longer binding, because the ninth article contained these words, "and in the event of peace being judged expedient, it shall be made by mutual consent, no party introducing unreasonable objections."

Mr. *Fox* wanted to know, if that were the sense of the case, what was the sense of conditioning that there should be no separate negociation?

Mr. *Dundas* said, the practice of Tippoo had been to attempt to bribe and buy off our allies, and therefore that condition was introduced. The treaty was calculated to produce peace, but peace was not to be concluded when a reasonable objection was offered; when unreasonable objections were introduced, it might be made separately.

The Speaker was putting the question, when

Mr. *Fox* rose again, and said, he was aware he could not speak, unless he made a motion; before he sat down, therefore, he would move to adjourn. The treaty, he contended, ought to be made the subject of more deliberate discussion. He had before put an unreasonable case; he would now put a reasonable case. It could not be denied, that the views of the Mahrattas and the Nizam for going to war, were different from those of the East-India company. The latter avowedly go to war in defence of their ally the rajah of Travancore, and to resent the insult offered to them by Tippoo Sultan. Supposing that the East-India company can have satisfaction equal to their objects, could peace be obtained? Undoubtedly not, for the Nizam would say, "your objects are answered, but mine are not," and so would the Mahrattas answer; we should therefore be engaged in a long and expensive war, when all the objects of our going to war were gained.

After a short conversation the motion of adjournment was put and negatived. The resolution was then agreed to.

Debate in the Commons on the Catholic Dissenters Relief Bill.] March 1. The House having resolved itself into a committee of the whole House, to consider of the motion, made on the 21st February, "That leave be given to bring in a bill to relieve, upon conditions and under restrictions, persons called protesting Catholic dissenters, from certain penalties and disabilities to which papists, or persons professing the popish religion, are by law subject,"

Mr. *Mitford* said, as he had been afforded an opportunity of opening fully to the House the nature and object of the bill last week, it was the less necessary for him to take up the time of the committee, by entering into any length of detail. For two years, he said, he had held out an intention to the public of bringing forward, as speedily as possible, some plan to exempt the Roman Catholics from the severity of those laws under the pressure of which they laboured; and the present he conceived to be a fit opportunity for the House to grant such relief, especially to that particular body of men for whom he craved it. It was not his intention to say how far a government ought or ought not to interfere with the religious and political opinions of the people; to overturn the principle of such interference was not the object of his motion; the laws were made against men supposed to be hostile to the laws and the prince of the throne. Those on whose behalf he spoke held no such principles, but were as loyal subjects as any in the kingdom. He proposed no repeal of those statutes, which he held to be a disgrace to the law books, but merely an exemption from their operation in favour of a few, so small, he said, was the exemption, that there was no occasion for any alarm; nor did he think there would be any occasion, were all the Roman Catholics to be at once freed from the operation of these harsh and severe statutes. It was, in his opinion proper to attend to popular prejudice, and therefore, for the most perfect assurance to the public at large, that toleration alone was desired, he proposed not to admit the persons in question to situations of trust or place

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under government, but was only anxious to have them considered as men of honour and loyalty, and good christians, though they differed with us in the forms of religious worship. He farther stated that at various periods of our history, Roman Catholics had acted in a similar manner in the reign of queen Elizabeth, king James, Charles the 2nd and other sovereigns; that they had, at different times, protested against the power of the pope to absolve from the oath of allegiance; others had remonstrated against it, and they had assumed different appellations, some calling themselves protesting dissenters, others remonstrants. At one time they were extremely ill treated by their brethren, who would not protest, and were much persecuted by them; but relief had been afforded them by various acts of parliament in the several reigns to which he had alluded. He said, that in reference to this circumstance, those persons for whom he stood forward had taken the name of protesting Catholic dissenters. He concluded with moving, "That leave be given to bring in a bill, to relieve upon conditions and under restrictions, persons called protesting Catholic dissenters, from certain penalties and disabilities to which papists, or persons professing the popish religion, are by law subject."

Mr. *Fox* rose, and expressed his concern that he could not suffer the motion to pass without urging an objection to it. As far as it went, he admitted that it did nothing but what was good, but, as he had declared on a former day, he could not assent to it without offering an amendment, and therefore, before he sat down, he should move to amend the motion, by adding the words "and others." The hon. and learned gentleman's object was just and laudable, but how far it ought to go farther was, in his mind, the consideration. His opinion respecting tests was well known: he thought all tests, both in religion and politics to be absurd, absurd and unwise, excepting only the oath of allegiance. He had been the most strong against the test and corporation acts; yet, he admitted, that there was a great and material difference between the considerations that ought to weigh with the legislature on that occasion, and the considerations that ought to weigh with them on this. He said, he never would be found to be one of those who did not hold, that the public had a right to prescribe what qualifications and restrictions they pleased for any person, before the king could employ him in their service. Where Roman Catholics did not solicit to be admitted to any place of trust, but only asked leave to be allowed to worship God Almighty in their own way, they ought, in justice, in reason, and in humanity, to be allowed so to do without being subjected to the operation of severe and sanguinary laws. Toleration in religion was one of the great rights of man, and a man ought never to be deprived of what was his natural right. His having brought forward a motion for the repeal of the test and corporation acts had afforded him this satisfaction, and had produced this good, although it failed in its great object; namely, that men of the first abilities and of the highest authorities in that House, had all concurred in admitting, that toleration was the undoubted right of every man. Nay, at all those meetings and assemblies for the purpose of opposing the repeal of the test act, the conduct at which meetings no man disapproved more than he did, every one, the most inveterate against the repeal, took the opportunity to profess himself a friend to toleration. Might he not, then, ask was it fit to profess so much, and to act so little up to their professions, by suffering laws to remain in force which were scandalous and disgraceful to the nation and unfit to exist a moment in any country professing toleration? The hon. and learned gentleman had opened his motion by resting those laws on the dangerous opinions which Roman Catholics had held and had entertained. He would not, he said, believe that the cause of those laws was any such opinions, because no such opinions existed. On the contrary, it was notorious that they owed their origin, in the reign of queen Elizabeth, to another cause—the fear of the power of the pope. Their multiplication was owing to the same cause in the reign of king James. A much more sensible reason operated in the reign of Charles the 2nd, viz. the fear of a popish king and tyrant, and in subsequent times, the fear of a popish pretender. All those fears, Mr. Fox said, had been in some degree warranted, but a wrong mode was taken to quiet them. In the two first of these reigns (Elizabeth and James) persecution had been resorted to; in the reign of Charles the 2nd, good men, to whom he gave credit for having acted, as they thought, for the best, though he could not but differ from them in opinion, might have defeated a popish king

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upon a different and a better ground. But, we were not now afraid of the pope, nor of a popish king, nor of a popish pretender. The pope had no power: the king was out of the question, as they all knew: and as for a popish pretender, if there were jacobites enow left to go to look for one, where were they to find that idol? When all these reasons were gone, ought they now to maintain what every man of sense was ashamed to maintain, and keep on their books statutes and laws, which could not be barely stated without being universally scouted. Maxims of toleration were acted upon, more or less in every country throughout Europe. Where then was the danger of adopting them with us in practice as well as in theory? In the year 1780, disgraceful riots, it was true, took place, in consequence of a partial relief being given to the Catholics; but, if that was admitted as a reason against the general relief he suggested, it was not only an objection to the hon. and learned gentleman's proposition for relief but to every proposition of the kind that ever could be brought forward. Did any man in his senses think that those who caused the tumults, could distinguish between the nature of the oath proposed by the hon. and learned gentleman, or of that which might be suggested on a general repeal of the sanguinary statutes? A bill for the partial repeal of some of the severe laws had passed in the year 1778; but laws more severe were left behind, because it was thought as they could not well be carried into execution without the assistance of government, they were not very likely to be carried into execution at all. Had the Catholics, since 1778, behaved more dangerously than before? Had they shown any thing since but the most perfect loyalty, and the conduct of as good subjects as those of the establishment? And, now, more of them came forward and protested their abjuration of those opinions which they never entertained, and which no reasonable man believed them capable of embracing. Relief, ample relief they were entitled to, and it ought to be open to them; they had behaved well, and no fit encouragement was given to good behaviour. He rejoiced, however, that in a few years they must come to a general toleration, for the times were too much enlightened to suffer men's minds to remain shackled. There was one plain road to pursue; keep in, if they pleased, all their statutes for the establishment; the test and corporation acts if they liked it; but let the statute book be examined, and strike out all the others which relate merely to opinions. He believed that, in Ireland, all the acts against Roman Catholics were repealed, and no danger had arisen; on the contrary the Catholics had behaved incomparably well ever since, and had given the most substantial proofs of their loyalty and attachment to government.—Mr. Fox wished, as the establishment depended on acts of parliament, to know who gave them a right to decide upon religious opinions, and by what model could they ascertain which opinions were right and which wrong? It was said, by some, that the pope was infallible: by others, that the church and council were infallible; but none had ever contended that that House was infallible; they might subject men to fines and penalties for being better than themselves; at all events only for differing from them in their mode of worshipping the Deity. He should move his amendment; but, knowing the necessity of compromising for a little when more could not be had, if he found his amendment likely to impede this measure, he would withdraw it. But, in that case he pledged himself, at some future opportunity to bring in a bill to repeal those laws to which he had alluded. The time, he hoped, would come when religious liberty would be as generally enjoyed, and considered to be as essential, as civil liberty. Sure he was, it might be permitted with less danger to the state, and greater safety, in all governments. He was happy in being able to assure the House of one strong proof of the tolerant spirit of the times by stating to them that, at a large and most respectable meeting of protestant dissenters, they were unanimous in wishing that the protesting catholics might obtain relief, and had come to a resolution to support them in their application. In this country, it was well known, that there was in the establishment a sect termed Methodists, to whom it was imputed that they held a doctrine that some were of the elect, and some reprobated; a doctrine *primâ facie* as bad as could be supposed to be entertained, because it was full as hostile to morality, as the absolution of the pope; but, he would not therefore condemn methodists, and think that they ought to be persecuted. His mode of looking at the matter was this; he concluded that

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they who held such doctrines did not see the same evil consequences as appeared to him likely to follow from them. He knew that there had existed many of the methodist persuasion, as worthy, as good, and as exemplary characters as ever lived of any sect or description. In like manner, the doctrines of the Catholics were denied by themselves to have the evil consequences which were stated to result from them, and both ought to be believed to know best what they considered as the consequences of their own religion.—Those laws which he had reprobated as created for persecution and revenge, were directed against the Catholics; when, if justice were adhered to, they ought to have been directed also against other sects, and their not having been so directed, proved that they were intended as a check upon opinions, and consequently that they had been made in the time of one man or body of men, whose aim was to exercise tyranny over others. The tyranny of one man over many was bad enough, but it carried its own cure with it, and a remedy was always at hand. The case was the same with the tyranny of a few over the many; but the worst of all tyranny was that of the many over the few, because there, the case was hopeless, and for that very reason it behoved those in authority to exercise their power with moderation, and not to oppress others. He had always been of opinion that the old proverb, which, from its homeliness, had something rather of a vulgar sound, had great good sense in it; "As you are stout be merciful!" In proportion to the superiority of strength, it behoved all who were in possession of it neither to tyrannise over the few, nor to trample upon the weak; but to take care that their proceedings never wandered from the dictates of justice and humanity; thus imitating what he trusted would prove the politic enlightened, and liberal conduct of the House to the Roman Catholics.—Mr. Fox concluded with moving his amendment.

Mr. *Burke* said, he perfectly agreed with his right hon. friend, as to the propriety of relinquishing the amendment, if it should not appear satisfactory, since the way to prevent a failing of obtaining a desired end was, to accept the smaller good where the greater was not attainable. The surest mode of remedying grievances was, to proceed moderately and do away a little at a time, rather than attempt to cure them all at once. Such violent changes were dangerous, and like a lever swung back at a single stroke from the place from whence it set out. He should, therefore, rather think it wiser to repeal the laws complained of so justly, by piecemeal than all at once. Men ought to be relieved from their prejudices by degrees. The doctrines asserted by his right hon. friend in his speech, though he could not subscribe to all of them, did the highest honour to his head and heart. But he could not agree with his right hon. friend, that a state was not empowered to inquire into the religious opinions of all who lived under its protection. It had an uncontrollable superintending power over those opinions, and it was highly necessary for the prosperity, the safety, the good morals, and the happiness of the community, that it should have such a power. Opinions influenced the passions, and the passions governed the man; it was a natural effect, proceeding from a natural cause.

Quicquid agunt homines, votum, timor, ira, voluptas,
Gaudia, discursus, nostri est farrago libelli.

and so long as such was its operation, it was the interest and the duty of government to maintain and exercise it. But then, its exercise should be governed by virtue and wisdom, which alone could regulate a good government, the conduct of which should be always marked by candour and temperance.—Mr. Burke, next proceeded more immediately to the subject of the laws against Roman Catholics, and began by stating, that in the preamble to the 27th of queen Elizabeth, danger to the state was the plea made use of, and instead of any religious or moral purpose being assigned as the ground-work of the statute, it was in so many words declared, that the act was passed solely for the suppression of a dangerous faction in the state; and, therefore, all the severities against the Roman Catholics which that bill contained were enacted into a law, and had so continued. Were the preamble founded, and the plea true, had he been to pass that bill, he should have voted for it, as the state must be preserved for the good of the whole. The first and dearest object to every individual, was self-preservation, and, in like manner, must legislators regard the preservation of a state. But, at this time at least, no man thought of any danger from the machinations of the pope. Why, then, should a danger

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be pretended which did not exist, and pretended merely for the sake of persecution? But if vulgar prejudice must, at all events, be satisfied (said he), why was not the oath proposed to the Roman Catholics in 1778 sufficient for that purpose? Why should we heap oath upon oath, as if we wished, at all events, to pick a quarrel with our Roman Catholic brethren? Did not this look like the effects of that "green-eyed monster" jealousy, whose suspicions it was utterly impossible to remove? He affirmed that the Roman Catholics who did not protest, were as good subjects as any in the kingdom. He had seen several printed papers of theirs, in which they had very ably defended their cause; and he did not doubt but that they would come forward with some proposal which would reconcile them to their brethren who did protest, and both to us. He had not lately heard, that the pope was preparing a crusade to invade us; nor was his holiness now supposed to be very active in either rebellions or revolutions. Had the revolution in America been occasioned by his holiness sending bulls and absolutions to discharge and absolve the Americans from their allegiance? He had never heard that any persons, who could have been supposed to have been sent by the pope, went to America, except only in one ship, which reached Philadelphia; neither had he heard that they had made many proselytes in America. He would confess that this country had, from the most early times, sustained much injury from the sovereign pontiffs of Rome. A certain Roman pontiff, called Julius Cæsar, had invaded this country, and reduced to slavery a large portion of our ancestors. The more modern Roman pontiffs, under the appellation of popes, had also very much oppressed our forefathers; but their power had vanished for ever. The pope, he believed, had no share in any of the late revolutions in Europe; and as to this country, he supposed no person now thought that the pope would come and pay us a visit. There was no pretender, it was well known; and the pope, politically speaking, was as dead as the pretender, or as dead as pope Julius Cæsar. Other popes had attempted to come here since, as pope Claudius, but he did not succeed. Pope Domitian and pope Nero, visited us by their legates, and in the reign of king John, legate Pandulphus came over, and did us as much mischief as the best of them.—After raising some hearty laughs at the emperors of Rome, considering them as popes, Mr. Burke at length came to state some of the extreme severities inflicted by the acts that were yet unrepealed; such as its being high treason either to hear a mass, or have a mass book in the House, although the law, in the first instance, prevented our understanding it. He enumerated other offences, and reasoned, for a long time, on the cruelty of hanging, drawing, and quartering persons (for hanged, drawn, and quartered, he said, they had been, in Charles 2nd's time) for offences arising out of mere religious opinion. He particularly ridiculed all ideas of danger to the state, either from the power of the pope, or the machinations of the papists in this kingdom. He was likewise very successful in his irony upon the doctrine, that much was to be feared from the pope's power to relieve papists from all allegiance to government, and every other scruple of conscience, by his dispensing and absolving power. He was of opinion, that, in the many rebellions which he had heard of, and other acts where a scrupulous conscience might be supposed to interfere, and deter the principal actors on those scenes, that they had assumed the dispensing power into their own hands, and that the pope had very little to do in the matter. Mr. Burke then, at some length, entered into the history of past ages, and the progressive state of different governments down to the present. The theory of toleration, from its widest extent, and through all its limitations, he argued fully, and with nice discrimination. With respect to these vindictive statutes, he observed, that such laws were not made for the safety of the state, but for the purposes of civil tyranny. They enabled men to oppress their neighbours and to rob them of their goods. They were calculated to make a man not love his neighbour; and he who loved not his neighbour would not love the state. It was the duty of every government to make the people happy; but that could not take place when every justice of the peace was made an inquisitor, and a man, for worshipping God in his own way, might be condemned for high treason. After this Mr. Burke proceeded to argue and discuss the question on various grounds, particularly with a view to tender and scrupulous consciences with his usual ability and discrimination.

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Mr. *Pitt* said, that he conceived it to be the general sense of the House, that the bill should be brought in; but, as the discussion had better come on deliberately, at a subsequent and more proper stage for it, and any alteration either in the title of the bill or the extent of it, might be adopted at that more fit stage, if upon due consideration, it should appear advisable so to alter or extend either the one or the other, it might, perhaps, upon such a ground, be deemed more advisable to let the motion pass without the amendment. He could not entirely coincide with all the observations which the right hon. gentleman (Mr. Fox) had stated that day, any more than he had been able to assent to the opinions which he had advanced during the course of the preceding week, when the same subject was under consideration; though he most readily concurred in much of his reasoning, and was sufficiently near him in many of his sentiments to be able to go on with the present bill. Neither could he agree with the other right hon. gentleman (Mr. Burke) to the extent of the principle which he had laid down, though that was so much the reverse of the principle maintained the other day, against which he had taken the liberty of entering his objection. What the grounds were upon which he differed from each of them, it was not material nor necessary for him to state then, as there would be future opportunities of amply discussing their several opinions. With regard to the alteration of the bill, and extending it farther, he was ready to say, that it was his wish that, either in that bill, or in some other, which might nevertheless be brought in during the present session, many of the statutes to which the right hon. gentleman opposite to him had alluded should be repealed: and, amongst these, all those harsh and severe laws which certainly ought not to stand on the statute book, and which it would be shameful to enforce against the Roman Catholics, or any other description of dissenters, for the offences there alleged, as offences to be punished in so extraordinary a manner. It would be proper to repeal those statutes, if the present bill, or any measure of the kind passed, because, in that case, if relief of the nature proposed by his hon. and learned friend who had made the motion, was granted to one description of Roman Catholics, and the statutes to which he had alluded, were suffered to remain unrepealed, it would have something like the effect of re-enacting them, as it would appear that the legislature apprized, as they had been, of their existence, thought that the other description of Roman Catholics merited to have such disgraceful statutes remain in force against them. It was perfectly indifferent to him whether the matter was done by one bill or by two; but it was unnecessary, with such a motion as that before them, to go at all further into the discussion, and as it might be more convenient to let the motion pass, he should, he owned, be glad if he could prevail on the right hon. gentleman to withdraw his amendment.

Mr. *Fox* answered, that although he did not feel the least reluctance to gratify the right hon. gentleman, by withdrawing his amendment, he rejoiced at having proposed it, because what he exceedingly desired, was to hear from the right hon. gentleman something of the very nature of those remarks which the right hon. gentleman had just uttered, since the right hon. gentleman must know better than he could, what sort of bill or bills were likely to pass without much objection. With regard to the general principle, in which he had the misfortune to differ from his right hon. friend, as to his decided opinion that a state had no right whatever to interfere with the religious notions of men, or to refuse to give universal toleration, he believed that it was an opinion which had gained, and doubtless, would continue to gain, daily, more and more upon the public mind; but it certainly did not gain upon his mind, because he had entertained no other opinion ever since he had been able to think. One thing, before he sat down, he wished to explain. From what the right hon. gentleman had observed in the course of his speech relative to the principles which he (Mr. Fox) had lately laid down, and the consequences he had drawn, that he could agree with him in many points which he had advanced, he (Mr. Fox) might possibly be misapprehended. He did not mean that the right hon. gentleman had mistaken him; he was confident that neither he nor the House mistook his meaning: but it might be conceived by some, that he had altered his opinion, and was not ready to extend the principle so far as he had carried it on the preceding Monday; it was to prevent that sort of misconception, that he begged leave to declare that he had not given up one jot of the principle he had stated that

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day; and the only reason why he had not again stated it was because, from the nature of the motion, such a statement was become quite unnecessary.

The amendment was then withdrawn.

Mr. *Pitt* rose again, and assured the right hon. gentleman that he had not intended to insinuate any thing like a dereliction of those principles which the right hon. gentleman had before avowed: but, from the nature of the speech which the right hon. gentleman had made, it certainly came much nearer to his own opinion than it did on Monday last.

Mr. *Burke* said that, as the right hon. gentleman had declared he differed both from him and from his right hon. friend, perhaps, as he had not stated in what the difference lay, he might conceive that he (Mr. Burke) from what he had said relative to the preamble of the 27th of Elizabeth, meant to maintain and defend that preamble. Mr. Burke re-stated his argument as far as it related to that preamble, and reasoned upon it as a proof that a plea was given in it, which, had it been founded, would have been a good one. He next adverted to the general principle he had laid down, to which he adhered; but he declared that he should nevertheless advise the more lenient way of carrying such principles into execution.

Mr. *Pitt* said, he really had not imputed to the right hon. gentleman such an idea as he seemed to imagine; that, in fact, he had not explained in what points he agreed with that right hon. gentleman any more than in what he differed from Mr. Fox. The chief difference with him was, that he could neither agree to carry the one principle, viz. that a state had no right whatever to inquire into the religious opinions of the subject on any occasion, to the extent which the one right hon. gentleman had done, nor the opposite principle, viz. that it had an uncontrollable superintending power, in all cases and on all occasions.

The *Attorney General* rose to express a wish that toleration, when granted, might be as extensive as possible, and to state, that, in his opinion, the bill, as opened by his hon. and learned friend would not be sufficiently comprehensive. He reminded the House, that the Roman Catholics, at this moment, walked the streets of London in as perfect security as any other description of subjects whatsoever, and that no person thought of molesting them. Perhaps, he said, most gentlemen were aware, that a controversy was going on between the two descriptions of Roman Catholics; those who called themselves Protestant Catholics, and those who had not protested. Several printed papers had been handed to him, in which the non-protesting Roman Catholics gave as sensible reasons to show that they had as fair a claim to be embraced in the bill, as the other description of Roman Catholics, as ever he had read.

Mr. *Mitford* stated the ground on which he had, for two years, held out to the public an expectation that he was to bring forward such a bill as the motion then before the committee described, namely, the fact that a number of respectable Roman Catholics had protested solemnly against all those evil opinions, which the language of the laws in being imputed to them, and therefore he must have acted inconsistently to have come forward with any other bill than that which he was now endeavouring to bring forward.

Mr. *W. Smith* said, it was very indifferent to him, so as relief was given to the Roman Catholics, whether it was done by one bill or two; but what he had chiefly risen for was, to corroborate what had been stated early in the debate by the right hon. gentleman on the other side of the House, viz. that the dissenters were extremely glad that relief was likely to be given to the Roman Catholics. The dissenters were seldom unanimous on any one point, but there was a general unanimity on the subject of granting relief to Roman Catholics; and though they thought themselves hardly dealt by, he had not met with one dissenter, with whom he had been accustomed to act, who had not concurred with him in expressing his hearty wish that the Roman Catholics, by some scheme of legislation or other, might receive the benefit of relief from the severe statutes still in force against them.

Leave was given to bring in the bill.

Quebec Government Bill.] March 4. The order of the day being read for taking into consideration his majesty's message relative to Quebec,

Mr. *Pitt* rose and said, that the motion which he should have the honour to make, was founded upon his majesty's message; that its object was to repeal part of an act of the 14th of the present reign, for the government of the province of Quebec, and to enact new regulations for the fu-

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ture government of the said province. Feeling the importance of the subject, he should have been desirous of stating fully to the House the grounds and the principles on which he meant to proceed in forming a constitution for a valuable appendage to the British dominions, which, he trusted, would contribute to its future prosperity; but as it was not likely that there would be any opposition to bringing in a bill for this purpose, and as explanation would come with more propriety when the bill was before the House, he should state only in a few words the outlines of the plan, unless questions were asked, or explanation demanded in the first instance; in which case he was perfectly ready to go more into the detail, than appeared to him to be at present necessary. The intended bill, he said, consisted of such particulars, as were calculated with a view to promote the happiness and internal policy of the province, and to put an end to the differences of opinion, and growing competition, that had for some years existed in Canada, between the ancient inhabitants and the new settlers from England and from America, on several important points, and bring the government of the province, as near as the nature and situation of it would admit, to the British constitution. The first great object was, to divide the province into two parts, under the denominations of Upper and Lower Canada (the former for the English and American settlers, the lower for the Canadians), and to give a local legislature to both. This division, it was hoped, could be made in such a manner, as to give each a great majority in their own particular part, although it could not be expected to draw a line of complete separation. Any inconveniences to be apprehended from ancient Canadians being included in the one, or British settlers in the other, would be remedied by the above-mentioned establishment. The means of carrying this into effect, would be to appoint a house of assembly, and a council in each, which would give them all the advantages of the British constitution. In the construction of the council it was intended, that the members should not be members during pleasure, but members for life; and that the descendants of such of them as should be honoured with hereditary titles, should have an hereditary right of sitting in such council. It was further proposed to annex the dignity of a member of council to every title of honour that might be conferred on the inhabitants of each province. At present, the Canadians were in possession of the criminal law of England, and the civil law in many respects, but not as to landed property; it was therefore intended, that landed property in Canada should rest on socage tenures. One other specific point meant to be provided for, was the extension of the right of the habeas corpus act to both provinces, which was at present enjoyed in Canada, under the authority of one of the ordinances of the province, and those ordinances held the force of law. It was intended to continue the laws now in force in Quebec, unless the assembly of each province chose to alter them. By these regulations, the complaints of all the petitions presented to the House would be remedied, as the inhabitants of Quebec would have an assembly, with the power of enacting what laws they pleased. They would consequently retain as much of the law of England as they now had and chose to keep, and would have the means of introducing as much more as they might think convenient.—There was also another important point, for which the bill would make a separate provision; he meant the maintenance of the Protestant clergy in both provinces, for which purpose there was a clause in the bill for a permanent appropriation of certain portions of land; and such provisions for future grants of land within the said provinces respectively, as might best conduce to the same object, in proportion to the increase of their population and cultivation; and as in one of the provinces the majority of the inhabitants would be Roman Catholics, it was meant to provide that it shall not be lawful for his majesty, in future, to assent to grants of land for this purpose, under the sanction of the council and assembly of either division, without first submitting them to the consideration of the British parliament.—With regard to taxation, to avoid the occasion of a misunderstanding, similar to that which had formerly taken place, no taxes were meant to be imposed by the parliament respecting Canada, but such as might be necessary for the purposes of commercial regulation; and in that case, to avoid even the possibility of a cavil, the levying of such taxes, and their disposal, should be left entirely to the wisdom of their own legislature. As

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the constitution, which he had thus briefly opened, could not be in a state of activity for some time, the executive government, appointed by his majesty, was intended to have the power of making such laws as might be necessary; but those laws to continue in force not more than six months after the first meeting of the legislature. By dividing the province into two parts, he conceived the existing causes of controversy would be removed: and, as far as circumstances would admit, the inhabitants would have all the benefits of the British constitution. In the Lower Canada, as the residents would be chiefly Canadians, their assembly, &c. would be adapted to their habits and prejudices. The Upper Canada being almost entirely peopled by emigrants from Great Britain, or from America, the Protestant religion would be the establishment, and they would have the benefit of the English tenure law.—Having thus cursorily stated the outline of the general government of Canada, to be established by the bill, unless any gentleman wished for farther information, he would content himself with moving, "That leave be given to bring in a bill to repeal certain parts of the act of 14 Geo. 3rd and to make further provision for the government of the said province."

Mr. *Fox* agreed with the right hon. gentleman that it was impossible to concur in any plan like that proposed, until the bill was before the House, but he was willing to declare, that the giving to a country so far distant from England a legislature, and the power of governing for itself, would exceedingly prepossess him in favour of every part of the plan. He did not hesitate to say, that if a local legislature was liberally formed, that circumstance would incline him much to overlook defects in the other regulations, because he was convinced that the only means of retaining distant colonies with advantage was, to enable them to govern themselves.

Leave was given to bring in the bill.

Corn Regulation Bill.] March 11. The House resolved itself into a committee on the Bill to regulate the Importation and Exportation of Corn. Upon the clause for erecting warehouses for the reception of foreign corn, to supply the country in times of scarcity,

Lord *Sheffield* said, that he never rose to oppose any clause that had been in his time offered to parliament, with more hearty good will, than he did to object to that now before the committee. He said, every man in the least acquainted with this island, was informed that the western and north-western parts were full of inhabitants and manufactures, and that in proportion to the inhabitants, those parts raised little or no great quantity of corn; but that the southern and eastern parts of the kingdom, were not so well inhabited, and raised large quantities. It had been the policy of this country to prevent exportation of corn from the southern and eastern parts, except when the price was moderate; and the western and north-western parts were the great markets of those counties that grew large quantities of corn. Under this system, the country and the corn trade had flourished a great number of years.—In the year 1773, it was supposed to be necessary to alter the corn laws, and while a bill was before parliament, a clause to the same purpose, but not quite so objectionable as the present, was introduced. It was suggested by an American corn merchant to the person who had the principal management of the bill, whose great wish and object was to become agent for an American province; and so entirely was their attention pointed to the interest of the American provinces alone, that their intention and wish was to warehouse only American corn, and to exclude Irish; but that could not be managed. He said, it was unpleasant to reflect on the conduct of the landed interest, and that they should tamely receive such a law from men so interested; and nothing was more curious than to contrast the alacrity of the manufacturer with the supineness of the landed interest:—not a session passed without some law being obtained, with a view to the interest of commerce against the interest of landed property. He did not blame the commercial interest, because they sometimes think their interest independent and separate from the landed, in which alone he did not agree with them; but he believed it was the only point in which he should not; and he flattered himself it was well known how zealous a friend he was to the manufactures and commerce of the country. The corn laws he considered as entirely intended for the encouragement of tillage, and he wished to draw the attention of the landed men to that point.—The mischief of warehousing foreign corn at all times,-in al-

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most all the ports of the kingdom, should be obvious to every man. Every country in the world might warehouse their corn in our ports, in readiness to be poured into the country the moment the ports were opened, either through fraudulent practices in the districts, or through the want of perhaps not the 500th part of our consumption. When once open, the port was to continue open for three months. By means of our canals, the country might immediately be glutted with foreign corn, before the counties which produced corn could send it coastwise to the ports which were thus opened, and the farmer must sell his wheat at 43*s.* per quarter to enable it to meet foreign wheat in our ports; as all the expenses of carrying coastwise, in general, amounted to at least 5*s.* per quarter.—It was hardly necessary to point out how ruinous such a system must be to tillage, and that the farmer would certainly turn his ploughed land into pasture, if the home market was to be forestalled by magazines of corn from cheap countries, raised, perhaps, at half the expense at which it could be raised in this country. Every thing proceeding from pasture was allowed to obtain its full value, while the price of corn was limited by the importation at low prices, to that it was a hundred years ago. Dependance on foreign countries for subsistence, and frequent dearths, if not famines, and also depopulation, would be the certain consequences of a dereliction of tillage; and in many counties, now well inhabited, would be seen only a few herdsmen and shepherds. —He added, that magazines, at the public expense, for foreign corn, were perfectly unnecessary in any view, especially as Ireland was now capable of supplying the utmost quantity that had been imported into this country in one year. He observed, that a scarcity, much less a famine, did not happen on a sudden, that the magazines of the great cities of Holland were near at hand, and that we had never wanted any nearer. He would therefore move, that the clause should be omitted. The committee divided: Yeas, 62; Noes, 62. The chairman thereupon gave his casting vote for the Noes, and the clause was of course thrown out of the bill.

Debate in the Commons on the Bank Dividends' Bill.] March 15. The order of the day being read, for the second reading of the Bill "for applying to the public service the sum of 500,000*l.* out of the balance remaining in the bank of England from sums issued for the payment of Dividends, on account of the National Debt, and for securing the punctual payment of any arrears of dividends, whenever the same shall be demanded;" a petition of the governor and company of the bank of England was presented to the House, by Mr. Thornton, and read; taking notice of the said bill; and setting forth,

"That, in the said bill, after reciting that, in pursuance of sundry acts of parliament, certain annuities and dividends are regularly issued at the receipt of his majesty's exchequer, at the end of each quarter of the year, to the cashier of the governor and company of the bank of England, by way of imprest, and on account, for payment thereof to the respective creditors of the public, and that, by reason of the delays which take place before some of the said dividends are demanded by the respective proprietors thereof, a large balance has been gradually accumulating in the bank of England, which balance amounted on the 8th day of January 1791, to the sum of 702,995*l.* 1*s.* 3*d.*, and that a balance to a smaller amount would be sufficient to secure the punctual payment of all arrears of such annuities or dividends at the bank of England, as the same shall be claimed, and that it is just and reasonable that such portion thereof as is at present useless to the public and to the proprietors, should be applied to public purposes, it is proposed to be enacted, that the governor and company of the bank of England shall, out of any monies which shall have been issued at the receipt of the exchequer for the payment of any annuities or dividends, payable at the bank of England by virtue of any act or acts of parliament, and which shall have become due previous to the 5th day of January, 1791, pay, or cause to be paid, into the receipt of his majesty's exchequer, the sum of 500,000*l.*, and that the petitioners beg leave to represent, that the money, which is thus proposed to be taken from them, is private property, of which they are in possession on account, and for the benefit of those to whom the same belongs, and the petitioners are apprehensive, that, if they were to be silent during the progress through parliament of a bill which appears to them of so novel and extraordi-

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nary a nature, and so repugnant to the rights of those with whose property the petitioners are entrusted, and to whose interests, without being negligent, they cannot be indifferent, they might be deemed to acquiesce in the propriety and justice of it; and as the petitioners conceived that any step to be taken by them for the purpose of assembling the numerous persons in every class and condition of life who are interested in the public funds, and collecting their sentiments, might be productive of great alarm, and perhaps occasion public disturbances, the petitioners have been induced to acquit themselves of their duty, in the discharge of a great and important trust, by preferring a plain and faithful representation to this House of the serious consequences to the public creditors with which the petitioners are fearful this measure is pregnant. The acts of parliament granting to the contributors to the public loans the annuities which are the consideration paid by the public for the money obtained from such contributors for the public service, and constituting all the government funds payable at the bank, and the evidences of a solemn and hitherto inviolable contract between the public and the public creditors, uniformly contain, for the benefit and convenience of the latter, a stipulation, on the part of the public, to the following effect: That, for the more easy and sure payment of all the annuities, the governor and company of the bank of England shall, until all the said annuities shall be redeemed, appoint one or more sufficient person or persons to be their chief cashier or cashiers, and one other sufficient person to be their accountant general, and that so much of the monies by this act appropriated for this purpose, as shall be sufficient, from time to time, to answer the said annuities, shall, by order of the commissioners of the treasury, without any further or other warrant to be sued for in that behalf, from time to time, and at the respective days of payment in this act appointed for payment thereof, be issued and paid, at the said receipt of the exchequer, to the said first cashier of the bank, by way of imprest, and upon account, for the payment of the said annuities, and that such cashier shall, without delay, pay the same accordingly, and render his accounts thereof according to the due course of the exchequer; and, by a subsequent clause it is enacted, that the bank shall be continued a corporation for the purposes of the said acts, until all the annuities shall be redeemed, notwithstanding the redemption of all or any of their own funds: by the acts of parliament from which what precedes has been extracted, and which assure to the public creditors their respective annuities in return for the money contributed by them to the public service, not in obedience to a law, but upon the faith of a public compact, the legislature, one of the parties to a contract of borrowing and lending, has expressly stipulated with those whose money the public have had the benefit of, that, for their more easy and sure payment, the full sum of their annuities, at the periods when they become due, shall be issued to the bank, for the use, benefit, and convenience, of those entitled to them, until all the annuities shall be redeemed, and besides, that this mode of payment is part of the original stipulation of the public, and is incorporated into the body of the contract between the public and the public creditors; it has also in its favour the prescriptive sanction of long usage, and the confirmed habits of all who have invested their money in that great mass of property constituting the public funds. The money in the bank, and out of which the sum in question, forming a long portion of it, is to be taken, is the balance of the quarterly issues made by the exchequer to the bank for the payment of the dividends contracted by parliament to be paid, and which the proprietors suffer to remain in the bank till it suits their convenience to receive them, and not from the amount of unpaid dividends of any considerable standing which may have been forgotten by the owner, or may be unknown to him. That such is the fact, clearly appears from the account which has been presented to the House of arrears of all dividends issued by government to the bank of England for payment of the public creditors, from the original establishment of the bank to the 31st December 1787, and which remained unpaid on the 31st December 1790, of which arrears, in all the different public funds, the total is .....£. 127,457 3 4

And if to this be added the arrears of prizes due on lotteries for the same period.....	46,380	0	0
And arrears due on various miscellaneous articles for the same period	16,427	6	9

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The total of that aggregate arrear of these various subjects would be 190,264 10 1

Hence it is evinced that the 500,000*l.* proposed to be taken is not money which lies in the bank to pay dividends unclaimed for any considerable time and long in arrear. If dividends, lottery prizes, and other articles, not demanded for the short space of three years, should be considered as old and unclaimed, and should therefore be taken back, as being without an owner (an attempt that would surely offend the reason and justice of mankind) even then all that could be taken would be 190,264*l.* 10*s.* 1*d.* To the present moment, the contract between the public and the public creditors, has been unimpaired, and the public faith preserved inviolate; no alteration, of the slightest kind, has ever been made in the contract, but with the consent of those whose property might be affected by such alteration and the money to pay the annuities has invariably been issued, with punctuality to the extent of the public engagements for the full payment of the public creditors. But by the bill now proposed, out of the money actually issued to the bank, in pursuance of public compact, and in the performance of solemn engagements, entered into for a full and valuable consideration, 500,000*l.* is proposed to be taken back from the bank into the exchequer, and to be diverted to other purposes, in which the owners of that money which is to be taken, have no concern but what is common to them with every other subject of the state. And the principle upon which that measure is introduced to the House, and which seems not to be concealed in the bill itself, is such as must naturally excite the most serious apprehensions: For the petitioners beg leave to observe, that so far from its being pretended, that this is money remaining in the possession of the bank without an owner, it is expressly admitted that it is not of that description, nor can be taken upon that principle, perhaps the only one which could justify the seizure of money levied and issued to pay those whose money the public had received; but because those to whom it belongs, have suffered it to remain in the place where they have stipulated it should be paid to them, a right is claimed to take it back, and to apply it to other purposes, without entertering into any new contract with the owners, and without their consent; in effect, to seize upon it in the hands of the agent for such owners, merely because those who alone have the just and lawful dominion over it, choose to let it remain in the possession of such agent, and because the use of it may be convenient in the interval to those who have the power to seize it. The petitioners conceive it to be their bounden duty, not only to those whose money this is, but to those whose money they may be hereafter obliged to take, in order to replace what is now to be taken away, and also to the public creditors at large, whose property is invested in the funds, and may hereafter, in various ways, be materially affected by the application and extension of this precedent, to represent against a measure which appears to them so unjust in itself, and so pernicious in its principle. This bill appears to the petitioners to strike directly at two principles regarded as sacred by the law and constitution of their country—It appears to them at once a violation of public faith, and an infringement of private right, for after parliament has entered into a solemn contract, and has pledged the public, as in justice it was bound to do for the punctual issue of the annuities due to the public creditors for their payment; to issue 500,000*l.*, less upon a given day stipulated by parliament for the issue, would be a manifest breach of contract; and to take back 500,000*l.*, after it has been issued, as now proposed, is only a difference in form, but not in substance. In either case, the contract with the public creditor is equally broken, and a power to dispose of their property is assumed, not warranted by any existing law, nor justified by any sound principle. When the public who owe it have issued the money in pursuance of the contract, the public has fulfilled that contract, and the power to apply the money to any other purpose appears to the petitioners to cease, subject only perhaps to revert back, and re-vest in the public, whenever a fair and reasonable presumption should warrant the inference, that such money remains without an owner, when no person exists who has any lawful dominion over it, or can complain of any possible injury from the seizure of it;—But whilst that money has a lawful owner, the power to seize upon it, by whomsoever claimed, must be repugnant to the lawful right of the owner, and subversive of the principles by which private property is secured

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from invasion. The money may not be employed by the owners, but the right of any other power to seize it can never be founded upon that circumstance. The money which is useless to the owner may indeed be useful to others; but as little can that circumstance found a right in another to take it from the owner; two rights so adverse to each other cannot exist consistent with the rules of property on its just security. Acts of parliament for granting annuities in consideration of money borrowed from individuals for the use of the public, are as the petitioners conceive, rather compacts than laws: The public borrow; individuals lend; and all the obligations of justice attach upon such contracts, and enforce as strict and faithful an observance of them as of any other of the conventions of men. The owners of the money proposed to be taken back are many in number, dispersed in different parts of the world, and include persons under various legal disabilities, as well as those of all states and conditions in life. There must also be many persons among them improvident, or negligent, who, disregarding the ordinary means of accumulating their fortunes leave their money in the bank of England, from established confidence in its security, and long experience of the facility with which, upon the first application, the money can be procured, except only where those who have had the power of disposing of it have, by their testament, clogged that disposition with such limitations as impede the simple and easy mode of transfer in use at the bank. On behalf of all these various descriptions of persons, the petitioners humbly represent, that none of the circumstances in which their property is involved at the bank, and which may, in some instances, create temporary obstructions that retard, sometimes the transfer of the annuity itself and sometimes the application for the dividend, can possibly afford any just right to take their money.—In no other case than the present, would as the petitioners apprehend, a law affecting private property be suffered to proceed without the consent of the persons interested; the only exception, of which the petitioners are informed, to a legislative rule of such importance to the property of mankind, is the case of public works, beneficial to the nation; and even then the individual, whose property is necessary to them, is only compelled to part with it upon receiving the full value of it, estimated on oath by a jury. By this bill, the property of individuals is proposed to be taken without their consent, and without their knowledge. The security of the bank of England, which they now have for it, is to be taken from them and their legal remedies to recover it from the bank, in case of refusal or delay in the payment, are to be annihilated; and, in lieu of what is thus to be taken from them, they are to have the contingent security of any money in the receipt of the exchequer, of the aids or supplies granted to his majesty for the service of the current year, or any preceding year, or of any monies arising from the surplus of the consolidated fund, which may remain at the end of any quarter for the disposition of parliament, or of any monies to arise by virtue of exchequer bills to be made out in pursuance of this proposed act; all which securities, valid and available as they may be, do not, as the petitioners submit, in the smallest degree, justify the substituting them in lieu of the money itself in the possession of the bank, where the rightful owners have chosen to leave it, and in lieu of the security of the bank for its forthcoming when called for, with which the owners are content. The petitioners humbly suggest to the House, the guardians of the public faith, that no slight or temporary convenience, from the use of money not actually employed by the lawful owners, would seem to justify the establishment of a precedent upon the statute book, by the assistance of which the property of the public creditors may be hereafter, and in worse times, daringly and successfully invaded: nor do the circumstances of the present times seem to call for such a measure, or offer any excuse for a deviation from the even and constant regard which has been had to public engagements. This step is not about to be taken during the pressure of an expensive and unsuccessful war, nor is the time at which it is recurred to marked by any great public calamity, or distinguished by any circumstances peculiarly inauspicious. But, on the contrary, it is generally understood, and the petitioners believe, as they hope, truly, that the affairs of the nation are prosperous; its trade and commerce flourishing; its finances thriving; its resources abundant.—If, under such circumstances, the money issued to pay the public creditors be taken back, and

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diverted to other purposes, what may not justly be apprehended for their property from this example, at any time of national adversity, when impatience and discontent under public burthens may impel those, charged with the conduct of public affairs, to take extraordinary courses in order to obtain revenue without taxing the people, and when this precedent, the first of its kind, will be in force to justify every future attack on the property and rights of the public creditors? If the principle of this bill were just, and its object unexceptionable; if it were merely a bill for directing the application of public money lying in the bank, the petitioners would still be under the necessity of soliciting from the House a more clear and explicit direction for their conduct than they have been able to discover in it after the most attentive examination, and of intreating that, in a bill which is to regulate their conduct in the execution of a public trust, they should not be left to collect the intention from uncertain implication, and doubtful inference; but in the distribution of money, in which individuals have also interests, and which, by various acts of parliament, is appropriated, as it comes into the hands of the bank, to the payment of those individuals, it is peculiarly necessary to explain that which is ambiguous, and elucidate that which is obscure. The bill proposes that, out of money issued for the payment of any annuities or dividends payable at the bank, which shall have become due at any time previous to the 5th of Jan. 1791, 500,000*l.* shall be paid into the receipt of the Exchequer. It is not supposed that this money, though lying in the bank, is not due to the public creditors, and will not, or, at least, the greatest part of it, be called for by the owners: the petitioners conceive it is not explicitly declared whether they are immediately to pay it when called for, and, if they are to pay it, out of what fund? for the future half yearly issues are already appropriated by the respective acts of parliament which direct them to be made, and they are to be applied to the payment of the half years dividends to which they belong. When the money which is now the property of the creditors, whose dividends became due previous to the 5th of Jan. 1791, shall be taken away, the petitioners are in doubt, whether the money belonging to the creditors entitled to any subsequent half year's dividend is to be taken from such creditors, and applied to the payment of the creditors of the old arrears; and whether the money expressly appropriated by former acts of parliament to the payment of one set of men, is now intended to be diverted to the payment of another. If that be the intention, the petitioners hope it will be so declared in the bill, should the same pass into a law: whilst the bank had money enough to pay the dividends to all the public creditors, there was no necessity for keeping different cash accounts in the bank; but that necessity, as the bill stands, will now arise, for if money belonging to those who were public creditors previous to the 5th of January, 1791, be taken, and if the future issues be, as they are, appropriated by the different acts to the payment of the respective half year's dividends, the bank of England cannot disobey the acts of parliament, and reimburse one set of men with the money of another; the accounts of the two cannot be blended. If it be meant to consider all annuities but those which became due the preceding quarter as annuities in arrear, and to throw into one common mass, for the payment of those arrears, all former issues of money, annihilating all claims of particular creditors upon any particular issue, except they demand the payment within three months—in that case, the petitioners conceive, a special provision for that purpose will be necessary. And when the several doubts hereby suggested are cleared up, the petitioners hope it will be found proper to extend the indemnity provided for the petitioners, so as more clearly to secure them against the provisions of the former acts of parliament, and the misappropriation or misapplication of money which is still to be issued half yearly, under those acts of parliament, for the use of the persons entitled to the respective dividends; the breach or non-observance of which acts, without the plain and precise warrant of a new law to justify it, may hereafter involve the petitioners in embarrassment and perplexity. The indemnity, as it now stands, is a security only for what may be done or omitted to be done in pursuance of the proposed act: but, if the petitioners should be questioned for applying the money of one man to the payment of another, as they apprehend they may be in many instances; if the intention of the legislature be left doubtful, their defence must depend upon the act now in contemplation; and if their case

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should not fall within the scope of the protection afforded them by that act, their indemnity, in the terms in which it is now conceived, would not reach the case. The petitioners, deeming it their duty not to withhold from the House any information of which they are possessed upon a subject of such importance, have annexed to their petition a copy of a letter, addressed to their court of directors, from the persons whose names are subscribed to it, being ten of the principal houses of commerce in the city of London transacting business for foreigners in the public funds, and to which letter the petitioners beg leave to refer the House; and the petitioners, upon the whole of the matter, most earnestly hope, that the said, bill, which hazards interests of such value and importance to the state, and may in its provisions and consequences so deeply affect the security of the public creditors, may not be passed into a law."

The following is a copy of the Letter annexed to the Petition:

"To the Governor, the Deputy-Governor, and others, the Directors of the Bank of England.

"Gentlemen;—As proprietors of the public funds, and as agents of many respectable foreigners extensively interested in those funds, we conceive it our duty to offer to your consideration some reflections which have suggested themselves to us, upon the late proposal of the chancellor of the exchequer, to convert to the temporary use of the public, a part of the sum in the hands of the governor and company of the bank of England, arising from dividends on the public funds due and not yet received.

"Whether the governor and company of the bank of England are actual trustees for the owners of those dividends, is a question we shall not take upon us to decide. That their appointment to the payment of them has been considered of great importance, is obvious, from the provision made in the several acts of parliament for continuing the governor and company of the bank of England a corporation expressly for that object.

"It can admit of no controversy that for the security and tranquillity of the public creditors, the faith of parliament stands pledged to provide an annual revenue for payment of the interest of the public funds, and to deposit this revenue in the bank for that especial purpose.

"Upon this revenue the proprietors of the annuities have a specific law, nor ought the fund thus appropriated to be diverted to any other use, under any security whatever, without the consent of the owners; for any different application of it, would, as it appears to us, be a manifest and direct breach of the covenants and good faith of parliament, and must, we fear, tend to weaken the public credit. A measure fraught with such danger, we should hope, will never be adopted, no advantage can compensate the hazard of such experiment.

"The money so deposited in the bank, or even supposing it to remain in the exchequer is, from the very moment of its being collected, the exclusive property of the parties for whom it has been levied; and of every shilling of the unclaimed dividends, there must exist a lawful owner either in the parties in whose names the capital stocks actually stand, or in their personal representatives.

"We cannot avoid submitting to you our further opinion, that it will reflect credit upon the government, as well as upon the bank of England; and that it is also an indispensable act of justice to advertise (with as much caution as may be for the prevention of fraudulent claims) such particulars of the dividends unclaimed as may afford the best means of a discovery of that property, and of the funds out of which it arises, to those persons to whom, and to whom only, they of right belong—that a large portion of such property may thus reach its true destination, without the smallest hazard of perversion, can admit of no question, and we cannot imagine, that any unjust usurpations may not easily be resisted.

"That such notice hath been so long withheld, is no argument against the justice of it. If the measure be right in itself, the delay of it is a subject only of regret. It may possibly be urged, that the proposal of such measure will be considered as originating from a spirit of opposition to the minister; this gentlemen, you have a right to disclaim; it will form no part of your motive in suggesting that measure, which may very safely rest upon its own merits. We should hope that the minister will not incline to persevere in any plan which may not be found eligible, upon a mature investigation of its effects, or to oppose any other which may conduce to the public credit or advantage. We are, &c. (Signed) Richard Muilman,

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and Co; Gerard and Jos. Van Neck, and Co; Harman Hoare, and Co; Wolf Van Kemert, and Ger. Bachus; Van Voorst and Fril; Peter Thellusson, Sons, and Co; B. Burton, Forbes, and Gregory; Edward Forster, and Co. P. and C. Van Notten, and Co. objecting to the publishing the list of names of proprietors of unclaimed dividends. C. and R. Puller."

The bill was then read a second time. On the motion that it be committed,

Mr. *Fox* said, the measure was so extraordinary and so novel, that in the present stage of the business he could not help hoping, that time would be allowed to consider the petition which had come from so weighty and respectable a body of men as the governor and company of the bank of England. He trusted this would be the case, however eager the chancellor of the Exchequer might be to proceed in the business. In a measure of such uncommon importance, it was material the House should mark their approbation of the principle of the bill. He said, he had never heard one single word of this petition till it was read by the clerk, and he believed a great majority of the House were precisely in the same situation, Unless some time was allowed for considering the merits of the petition, the House would not give this subject that solemn discussion which it deserved. He thought there could be no objection to putting off the debate for a few days, that they might have an opportunity of considering the arguments stated in the petition. If this was not agreed to, he must move some question of delay. He said, the authority of the bank was great, but his personal authority was less than nothing; and all that he wished was, that the House might have an opportunity of considering the merits of the petition.

Mr. *Pitt* said, that this was a measure of which certainly as long notice had been given as of any measure whatever. It was a question which did not lie in any great extent. He was ready to admit that the petition ought to be treated with respect and attention; but there was nothing stated in it that was new as to the principle of the bill. He trusted they would not decide this question on the authority of the bank. The right hon. gentleman, who had very much undervalued his own authority, he was sure was ready to state his objections to the bill, and the House would pay a proper regard to those objections. If the petition had stated any thing different from the general detail of the bill, that might have altered the case, The bank went upon this supposition, that the whole of the bill was to operate to the general disadvantage of the public creditor without his consent. Now, he would venture to affirm, that no one public creditor would be affected in the smallest degree by the bill without his own consent having been as expressly given as in any case whatever. Under that impression he was the more anxious to come to the debate on the principle of the bill, and he hoped they would allow to those who had brought in the bill, after it had been in gentlemen's hands, and after the subject had been for months in their contemplation, to prove the objections to it were ill-founded. Unless he could show that no one principle relating to public credit was weakened or impaired by the bill, he declared, he should not think he had made out such a case as ought to induce him to proceed a single step further. For the satisfaction of the public mind, as well as their own, the sooner they dispatched the principle of this bill the better.

Alderman *Watson* said, he was persuaded the right hon. gentleman wished for nothing more than that the House should be fully informed of a matter of such importance. The directors of the bank had taken no part in the business, but that which they conceived to be consistent with their duty.

Mr. *Fox* repeated, that his own objections to the bill were insurmountable, and that even if the proprietors had consented to the measure, his opposition, though it might have been diminished, would not have been removed. He wished not for an adjournment on his own account, nor should he find any difficulty at present in putting a direct negative on the bill. The right hon. gentleman had expressed himself impatient to prove to the House, that the allegations against the bill were ill founded. If this were really the case, it was strange that his impatience should not have had its proper operation, and produced its natural effects. It was extraordinary that, instead of the mode of proceeding which he had adopted in the conduct of the business, he should not have set out with stating the grounds upon which he founded his bill. He doubted not, indeed, that he might be impatient to urge his case; but he could not see that it was therefore proper for

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the House, in a question of such importance, to be impatient to decide between him and the bank. Great as his authority was, it was certainly, on the present subject not to be put in competition with the authority of the bank. The form of the petition was indeed singular: it had exceeded the usual length of petitions, as instead of having recourse to counsel, the petitioners had interwoven their arguments in the body of the petition itself. But this form though less common, was not less respectful to the House: nor was the petition on this account less entitled to the attentive consideration and serious regard which the high importance of the subject demanded. When the principle of the bill should come to be debated, he should certainly state the grounds on which he founded his opposition, nor did his present motion for an adjournment at all proceed from any desire to make up his mind on the subject, but merely from the regard which he considered as due to the petition of so respectable a body. The bringer-in of the bill had, indeed, shown himself aware of the propriety of adjournment, by his attempt to evade the force of the argument. He had supposed that those who disapproved of the bill, might be prepared without farther delay to state the grounds of their opposition. But he would ask any gentleman, from the manner in which he had been struck with the first cursory hearing of the petition, whether the arguments appeared to be such as he ought to regard, whether they were such as ought, at the first view, to be decided upon, or were entitled to closer examination and more deliberate inquiry. Such were the considerations which induced him to move, "That the debate be adjourned to this day se'nnight."

Mr. *Pitt* contended that the present question was not on the merits of the bill, but whether the petition was such as ought to occasion delay. If it were admitted, it would give their constituents an undue power of influencing the proceedings of the House, as when they wished to oppose any measure, they would only have to present a petition on the eve of the second reading of a bill; and thus, the progress of the public business would be materially retarded.

Sir *Benjamin Hammet*, having premised that the petition was presented as early as possible, remarked, that the stockholders, who were satisfied with the manner in which their interest was at present paid, and who were adverse to any alteration, had meant likewise to have presented a petition against the bill, and had desisted principally at his dissuasion, because he was convinced that the meeting of so numerous a body might have been attended with some circumstance of tumult or disorder. He was persuaded that the bank of England would be willing to lend the minister the sum of 500,000*l.* upon public security, without interest, so long as the same shall be unclaimed. Another circumstance which rendered him desirous that the motion of adjournment should not be resisted, was, that he meant to move for a call of the House, as the question was of the greatest importance to the public funds, and the most interesting to the national credit, that had been agitated since the Revolution. The object of the bill had not been rightly understood. It extended to the floating balance, and had generally been understood as affecting only the unclaimed dividends. He implored the minister not to oppose the adjournment. The appropriating of the floating balance he considered as a measure attended with more circumstances of impropriety and danger than the seizing the cash and papers of a private banker.

Mr. *Grey* rose to remove the imputation from the bank of having deferred their opposition to the last, with a view of occasioning delay. Those who recollected the progress of the bill could hardly complain of the delay which had attended bringing forward the petition. It was necessary that they should previously be in possession of the bill, which had only been read a first time on Wednesday.

Mr. *S. Thornton* said, that two meetings, consisting of upwards of three hundred persons, had been obliged to disperse for want of copies of the bill, and that the petition had only been prepared upon the preceding day.

Mr. *Pitt* said, that a copy of the bill, as soon as it had been printed, was put into the hands of the hon. gentleman. It was difficult to conceive that there could be any misapprehension with regard to the object of the bill, as he had correctly stated the appropriation of the floating balance, and as it had been some years since suggested to appropriate the unclaimed dividends, and the scheme had been laid aside on account of the trifling amount of the sum.

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Mr. *Windham* said, that the argument against the adjournment, drawn from the delay of the petitioners was not conclusive. If such delay should, in any instance, be the effect of artifice, or proceed from an intention to embarrass the proceedings of the House, they were certainly competent to decide on such artifice, and treat it with due disregard. But the argument in the present instance was but of little weight, as no such artifice could be imputed to the bank. This petition was the natural effect of the bill, and could not have been brought forward sooner.

Mr. *Montagu* said, that the reading of the arguments of the petition was equivalent to the hearing of counsel, and allowed the House as much ground to proceed upon in their decision. He was convinced that justice would be done to the petition in the future stages of the bill, and for the sake of the rule, wished the House to proceed with the debate.

The *Master of the Rolls* said, that a notification of the bill had been given on the 25th of February, and that as an intimation of the intention of bringing forward any measure allowed sufficient ground for petitioners to proceed upon, the bank might certainly have been much earlier in their application. Still, however, there was no necessity for an adjournment. The commitment did not exclude any attention to the petition. It was not requisite that the committee should be appointed for an early day, and there would be sufficient opportunity, during the future stages of the bill, for all consideration connected with its consequences.

Mr. *Fox* said, that he understood it was the rule that the second reading was the time at which the principle of a bill was to be taken into consideration

The *Master of the Rolls* considered it as perfectly competent for any application to be made to the House relative to the tendency of a bill, from the moment that leave was moved for to bring it in.

The *Speaker* was of opinion that a petition might be presented against a bill, as soon as the motion for leave to bring it in had passed the House! but certainly the usage was to present the petition against the principle of a bill upon the second reading. It was true, indeed, that there were still later periods at which those who were interested might petition, but he thought the second reading was the most regular time.

Mr. *S. Thornton* wished to have the court of directors, and the proprietors, freed, as much as possible, from any intentional delay in bringing up their petition, which they had done as soon as they possibly could. He stated that it was very seldom that the bank of England had occasion to trouble government; that he believed it was about seventy years since they had addressed government in this manner. The candour and confidence which the directors and proprietors seemed to evince in the government, was one strong reason why they acted more delicately than, perhaps, they otherwise would have done; wishing at the same time to see the bill, and be fully acquainted with its tendency, before they ventured to give any opinion upon it; and particularly to have every information they could get, before they drew up the petition which was now on the table.

Mr. *Burke* wished to speak a few words about the right of the subject to petition against bills depending in that House; a right which he thought every one who deemed himself aggrieved by the nature or tendency of such bills, was fully possessed of, when he was inclined to use it, and this at any period of discussion, from the introduction to the passing of bills in parliament; though he agreed perfectly with the chair, and with his right hon. friend, that when the petition was against the principle of the bill, certainly the most regular and usual stage to present it was on the second reading: if that, however, should be omitted, he would be sorry, indeed, if the opportunity was lost on such an important occasion as that to which the attention of the House was at present called. With regard to the petition on the table, the facts it contained had great weight with him, because he could not help considering the bank of England as very high authority upon a question so materially connected, not merely with their own credit and character, but also with the public credit of the nation; and from the unanimity that had prevailed amongst the petitioners, who certainly were much better acquainted with the question than he was, or many gentlemen present were, in expressing their sentiments so fully in the petition, and these sentiments being confirmed by the authority of three hon. gentlemen in their places, who were all bank directors, he, for one, must undoubtedly think and say, that the petition me-

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rited, and ought to have, mature deliberation. He likewise applauded the cautious and respectful manner in which they had proceeded, by waiting till they saw and could judge of the bill, before they uttered any complaints; and was surprised at those arguments which had accused them of intentional delay, in order to retard the progress of the bill, which an hon. gentleman opposite had used. He had spoken as if he wished they had taken fire at once upon the first notice of leave to bring in the bill—a conduct which he should have thought highly blamable and factious. It was more becoming the wisdom and the importance of that respectable body of men to proceed with gravity and circumspection. The hon. gentleman who blamed the tardiness of their motions, seemed to have adopted, on this occasion, the maxim of a special pleader, "vigilantibus non dormientibus leges inserviunt;" and appear to consider the House of Commons and the bank of England to be engaged in warfare with each other, and that it was lawful to take advantage of the want of vigilance in the enemy; "dolus an virtus quis in hoste requirat?"—An hon. director had stated the long time that had elapsed since the bank of England had any occasion to differ with the government of the country—a circumstance that was highly honourable both to the government and the bank. The latter was a great public body, and had acted as such with the greatest propriety; and in full confidence with the government; a confidence that should be supported. Yet, however much he was a supporter of that confidence, there was no degree of confidence in any relative situation that ought to be unlimited, or without reasonable bounds. Thus, in his opinion, the bank, in this instance, had acted much more properly than if they had followed the ideas of the hon. gentleman, who, instead of letting them see and consider the bill, wished them to have taken the alarm upon the bare mention of leave to bring it in, and to have called out their guard to meet it on its first entering into the House, before they knew what it was. He would have had the directors of the bank of England to have primed and loaded their petition, in order to bring it down slap upon the bill, and to have charged the enemy at once with all the bristling bayonets of their objections. But, in his opinion, this vigilance of warfare, this promptitude of Prussian tactic, would have been little worthy either of the House or of the bank of England. The directors had consulted their own dignity as well as respected the dignity of the House of Commons, by proceeding in the deliberate and cautious manner which marked their conduct on this occasion. Had they taken fire at first, their proceedings would have been stigmatized by the appellation of faction; and, perhaps, an over-readiness to resent the intention of ministry, might have been productive of consequences the most alarming.—Independent of the opinion of the bank, Mr. Burke thought it necessary that the members should have some time to make up their minds upon the information which was now, for the first time before them; not merely to consider what were the opinions of the bank proprietors, but to consider what weight those opinions ought to have when contrasted with the proposition which they opposed. He did not mean to go at all into the general principle of the bill now; nor indeed was he prepared to do it, if it had been before the House. He concluded by strongly wishing success to his right hon. friend's motion, which he thought was founded on fair expediency and solid justice.

Mr. *Mitford* contended against the motion as unnecessary. He thought sufficient time had been given to those in the House, and those concerned out of the House. This he considered to be the proper time to go into the principle of the bill. He was of the same opinion with those hon. gentlemen who argued that the bank, if they had intended to bring up a petition against the bill, had sufficient time since the 25th of February, when the notice was given. Then, he insisted, and ever since that time, it had been perfectly competent for them to have petitioned, and been heard by counsel. The petition, he thought, was only meant for delay, and could answer no good purpose. But if the House looked at the petition, they would find that the present motion went farther than it did. There was no prayer from the bank to put off the commitment of the bill, or for any delay; their arguments went against the principle of the bill entirely, and certainly this was the proper stage to debate that point. It had been mentioned several times that the bill had been misunderstood; an argument which he thought scarcely could have been used, after the manner in which the business

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was first opened by his right hon. friend.

Mr. *M. A. Taylor* spoke in favour of the motion; and asserted, that this attempt, made against the public credit and character of the nation, was one of the strongest measures that had ever been adopted by any administration. He replied principally to Mr. Mitford's arguments, who had thought that the bank should have been heard by counsel. He contended that they had taken a much better way in the petition which lay on the table, and which would give more information, if time was allowed to the members, and less trouble, than if they had employed counsel. He thought the dignity and justice of the House required their serious attention to the petition, particularly when it must be allowed, that not only the credit of the bank of England and the interests of the public creditors of the nation, but the rights and interests of many foreigners, were deeply involved in this novel, and, in his mind, unwarranted proposition.

The question being put, that the debate be adjourned till this day se'nnight, the House divided:

TELLERS.

YEAS	Mr. Grey - - - - - - Mr. M. A. Taylor - -	82
NOES	Colonel Phipps - - - Mr. Rose - - - - -	179

So it passed in the negative. The debate on the question that the bill be committed, being then resumed,

Mr. *Fox* rose and observed, that notwithstanding it appeared to be the general sense of the House, that the unclaimed dividends were not the object of the bill which he designed to oppose, but that five hundred thousand pounds of the floating balance, out of seven hundred, which were stated to be in the bank, were to be taken from thence by government, and appropriated; yet certainly it was understood, and it did not appear from any expressions in the motion that was made by the chancellor of the exchequer for leave to bring in the bill, that he himself understood any thing else than the unclaimed dividends: he should, however, preceed upon the object of the bill, as it was now explained.

His objections to the principle of the bill he divided into two heads. First, it was utterly subversive of public credit, upon which the importance and prosperity of this country materially depended. Secondly, it was a direct invasion of the property of the bank, which had an usufructuary right to this floating balance. He would begin with this latter point, because its prior discussion would more easily lead into the examination of the former position. All property, however acquired, provided the acquisition was legal, whether by industry or by trade, was equally entitled to the protection of the laws; and as banking was a trade acknowledged and authorized by law, so the profits of a banker were entitled to the same protection with every other species of property. But the bank of England was, with respect to the floating balance, to be considered in no other light than that of a private banker, who is a trustee to the owner for the money which is desposited with him, and accountable to that owner whenever he is called upon by him; the trust is the same in both cases; the election is the same; the same kind of security attaches; the same duties, the same advantages result from the connection; and certainly it could not be denied, but that the case of the bank of England with respect to its customers, which the public creditors were who did not call for their dividends immediately as they became due, was substantially the same with that of a private banker with respect to his customers, who left money in his shop. It was substantially the same, although, indeed, some little difference occurred in the form of drawing the money out in the one case and in the other; for in the case of the bank of England, there was a power of attorney necessary, which was not required in the other case; but surely, this made no difference as to the substance of the thing. A gentleman living in the country has a dividend of 100*l.* paid into the bank; he does not want the money, he will not be at the expense of going up to town to receive it, or he has no occasion to use it if he did; he waits, then, till the occasion arises; will any one be absurd enough to suppose, or mad enough to contend, that in all this interval the bank of England is not, to all intents and purposes, as his private banker; that it has not the same advantages with his private banker, and the same usufructuary property in the money so committed to its care?

The floating balance, which was about to be seized upon, was precisely that which he now put for the sake of argument. The dividends unclaimed for any

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long series of years were scarcely any; those unclaimed for twenty-five or thirty years were very trifling; and the floating balance was money, the claims of which were of a date so recent, that it was fully proved it was left their voluntarily, until occasions should arise to the owner of it for its use. This being the case, what does this bill do? It violently seizes and converts to public use, money which is as distinct from all public claim, as the money lodged at the house of Mr. Drummond, or any other banking-house in London. It says, "your customers, A, B, and C, have lodged with you 700,000*l*., we will take 500,000*l*. of it, and apply it as we think fit; it is true, that we have no letter of attorney, no order from A, B, and C, for what we do; those gentlemen we have no connexion with; we do not come as their friends, but we will take the money, and make use of it." Some gentlemen had chosen, during the course of the debate, to contend, that the dividends being public property, the public had a right to make use of them; but this certainly was not the fact; for the very moment that the money issued from the exchequer, it ceased to be public property, and was as much the property of individuals, as any other species of property whatever; and as it became the property of individuals so every circumstance which attended private property immediately attached to it. Here then, also, that usufructuary right of the bank of England did most necessarily attach; for, the right of bankers to make use of the money lodged with them in the way of trade, was a circumstance attending private property which could not more easily be divested from it than any of the other circumstances and qualities that attend it. Here, then, there was no difference whether the money left in the bank was left there by way of dividend, or whether it was money which had been received from the rents of a landed estate, or from any kind of capital, and there deposited by the owners: excepting indeed as the difference affected in a more favourable manner the money left by way of dividend, because that species of property was always deemed and justly deemed, more sacred and inviolable than any other: all other property might be taxed; rents from land might be taxed; the profits of trade might be taxed, but the interest arising to the public creditor could not be taxed; for there was an implied contract to that effect; much less could it be violently seized on and appropriated, when it was admitted that other property less sacred, less inviolable, could not, under similar circumstances, be meddled with at all. Hence it unanswerably followed, that the government were equally entitled to take an account of all the balances in the hands of the different bankers, and to tell them, "So much is enough for you to keep in your shop, so much for you &c.—we will take all the surplus because we want it, and we will leave you enough to go on with." The same principle would bear out government in this invasion of private property, as in the matter now before the House; and though gentlemen might think that this mode of reasoning was pushed very far, yet he could assure them it was perfectly applicable: for there could not be a more certain proof of a bad principle, or of no principle at all, than that all the consequences which are deduced from it should not be justified, and that we should defend in some cases, and condemn in others when there is no real difference existing between the cases.

With respect to the position that public credit would be materially injured by this proceeding, Mr. Fox argued that there was nothing so simple as to assign the cause, whether of public or private credit. Credit in general was maintained by keeping your word, and it was lost by breaking it. Now, all acts of parliament, by which money was borrowed from individuals, was simply a contract between the public and the said individuals. Supposing, for instance, that I agree to lend the public one hundred pounds, for which the public makes a reciprocal engagement that it will pay me three pounds a year; it also engages how and when it will pay me. When? As that it will pay me thirty shillings upon the 1st of January, and thirty shillings in half a year afterwards. How? As that it will issue the money to the bank, which bank shall pay it over to me. Now the annuity, the time of paying it, and the manner of paying it, are all parts of one indivisible contract; and you may, with the same right, destroy one part of a contract as another. But you will say, is your security the worse for having the money re-absorbed into the exchequer? Do you doubt our means, or our faith? To this I answer, it is not the question now whether my situation is rendered better or worse; the question is

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whether you fulfil the terms of your contract? It is evident that you do not fulfil them; and therefore you have not kept your word, and your faith is violated.

Having made these remarks, Mr. Fox next contended that the terms were not only broken in general, which, upon the abstract, was a violation of a principle whatever might be the consequence; but they were broken to the disadvantage of the public creditor. Where the bank was the paymaster, if they failed, there was the same action as against an individual; the law was clear and explicit, and the course of proceeding was defined; but where the exchequer turned paymaster, all was darkness; there was no proceeding no course marked out by which the injured creditor could recover his right. Indeed, this was so much the case, and so necessary had it appeared to the legislature of this country, that it had always been a most useful part of their policy, inasmuch as to that very circumstance we were indebted for the great superiority of the public credit of Great Britain, beyond that of all neighbouring nations, to interpose the bank in all transactions between the public and individuals; and if the fact was what he had a right to assume it was, that this interposition of the bank had been the means of obtaining money upon easier terms than could have been otherwise obtained, the taking away this interposition, or even altering or modifying it, was a direct and palpable violation of the public faith; and it was a fraud of the basest complexion, to receive an advantage for an equivalent which was not maintained, while the advantage was still enjoyed. Some questions had been proposed to counsel, upon the subject of the bank being security to the public creditors for the money, after it had been issued from the exchequer for the payment of dividends Four counsel, of the greatest eminence in their profession, had given most decidedly their opinions, that the bank was a security under these circumstances the solicitor general, indeed, declined giving any opinion on the subject, on account of the situation in which he then stood. But one gentleman, Mr. Wood, upon whose abilities or knowledge he did not mean to cast the slightest imputation, did give it as his opinion, that the bank was not a security for monies so issued. Mr. Wood, doubtless, had not considered sufficiently the several acts by which the money was directed to be paid to the bank. Certainly, if the bank was not security, these acts required a most speedy revision. For, who was the security? If the bank was not, it was the cashier of the bank. So that upon the conduct of one individual, the integrity of the public faith, the security of all the public creditors, the dignity, the importance, the very existence of the state, depended, according to this opinion. But surely this was not the case upon any ground of reasoning. Did not the bank appoint its own cashier; and was it not therefore responsible for the acts of its servant, whom it had itself invested with this trust? So that although the money is, indeed, directed to be paid to the cashier, which seems to have been the ground of Mr. Wood's opinion, yet it is only so directed for form, and the bank is the substantial security to the public creditor, and not the individual whom it may choose to appoint its cashier. Now, these acts which direct the money to be paid to the bank of England, the policy of which is not to be doubted, and the moral propriety of which has the obligation of a contract, are about to be completely overturned by the bill which is before the House. These acts say, you shall so pay the money of the public creditors; this bill says, you shall take it away again.

Passing from these observations, Mr. Fox thus put the case of a contract between A and B. A wishes to borrow a hundred pounds of B. B says he will lend him the money, provided he will repay it by instalments. But, says B, as perhaps I may not know where to find you, or it might put me to some inconvenience to look for you, you shall pay the money by instalments into Mr. Drummond's shop. A consents to pay the money by instalments into Mr. Drummond's shop; and Mr. Drummond, who is now another party to the contract, agrees to receive it. After this A changes his mind, and pays the money into the house of Child: will any body say that he has fulfilled his contract? The security of Child is, perhaps, as good as Drummond's; but if B does not consent that the security should be shifted, will any one contend that if Child should fail, A will have performed his contract, though he should have paid all the money to Child for the use of B? Now, what are we about? Are we not precisely putting ourselves in the situation of A, who has paid the money of B, with-

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out his consent, into the house of Child, and shifted his security, and broken his contract? And though it may be asserted, that persons having property in the bank may demand it before we shift their security, by placing it in the exchequer, yet this statement is not correct; for the property of many persons is locked up in trust; some are minors, some are in the West and some are in the East Indies. We shall, therefore, have committed the injury in some cases where no consent can be given; and, in others, before the parties will have been able virtually to consent; for, a virtual consent is all that is contended for.

Mr. Fox declared, that he did not entertain the most distant idea of taxing the right hon. the chancellor of the exchequer with a design to confound the unclaimed dividends with the floating balance of the bank; this, however, he would say, that his confusion had been of the greatest service to the minister in the prosecution of this measure; for, had the public been specifically apprized of this robbery of the bank, the alarm would have been taken, and the bill would not have been ripened to the present stage of maturity. The idea, indeed, of the public demand on the unclaimed dividends, was an idea founded in ignorance; for there was no such thing as any property in this country without a claimant; and in default of any relations of the deceased owners, all property was vested in the king. Not that he should contend that the public had not a claim upon the king, but the legal distinction should be observed, and whatever was taken by the public ought to be taken in right of the public. This measure had, therefore, hitherto proceeded upon a fallacy in the public judgment.

As to the miserable precedents adduced in favour of this measure upon a former day, they were too insignificant to deserve a serious refutation. Upon principles of general reasoning, there could be no doubt, Mr. Fox added, but that the question was entirely with him. As precedents had been adduced, he should beg leave to trespass a little longer on the patience of the House, with some obvious remarks concerning their nature. The first precedent was the case of the banker's debt, and this was not at all in point according to the present terms of the bill! for this was a bill concerning a floating balance, and that was specifically a bill concerning unclaimed dividends. There was also another precedent concerning annuities upon lives, where the dividends were resumed by government, and to this he should answer, that there was a very material distinction between the two cases; for, when annuities are determinable upon lives, there is always a presumption, at a certain distance of time, that the lives have expired; a presumption which never can hold good with respect to perpetual annuities. But with respect to the matter of precedents, it behoved the House most carefully to avoid any measure by which a precedent could be set to countenance injustice; and the rather, as there was something alarming in the use which was made of precedents upon this very occasion. Precedents had been stated, which might not have been quite justifiable at the time they were set, for the sake of countenancing the commission of a greater injustice; and if this were now to be a precedent, he trembled to think what were the enormities, each greater than the other, provided the subject matter had some little analogy, which might not be indulged with a favourable reception under the dangerous cloak of precedent. As to what had been asserted concerning persons who held pecuniary trusts under government, and whose balances were taken out of their hands, and vested elsewhere, as in the case of the balances taken out of the hands of the paymaster general, treasurer of the navy, and others, he denied that there was the smallest analogy by which the House could determine the propriety of taking away the floating balance from the bank. The paymaster general, and others, were no parties to any contract between the public and those persons whom they paid on the account of the public. The officers of the army, or of the navy, certainly had made no contract with the executors of lord Holland or of Mr. Rigby. If these balances were taken out of the hands of the executors of lord Holland or of Mr. Rigby, how were they affected? or in what manner could they be said to be parties to such a transaction? The complete futility, therefore, of such an argument, rendered it undeserving of consideration.

In summing up the various arguments of his speech, Mr. Fox contended, that if we admitted the bank to be trustees to the public creditors for the payment which had been issued from the exche-

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quer, a fact which could not be denied *in toto*; or if we admitted that the bank were trustees only to minors, to foreigners, to persons at so great a distance as not to be able to exercise any act by which their consent to the transaction could be implied, we should still be impressed with a sense of the injustice of the bill now before the House. This was not a case where a majority of public creditors were to decide, and to bind the minority by such a decision. The contract of the public creditors with the public was the contract of every individual of them, and not a general contract; and though, supposing the public creditors were in number twenty-nine thousand, and twenty-eight thousand nine hundred and ninety-nine of those were to give their consent to this alteration of the terms of the contract, yet was not the single one concluded by their decisions, and he had a right to insist upon a specific execution of those terms upon which alone he had entered into the engagement.

But, gracious Heaven! added Mr. Fox, when we consider the sacrifice which is to be made; when we reflect that a general principle must be violated; that the faith of the public must be impeached, and the credit of the nation hazarded; and when we contrast all this with the advantage which is to be gained, that a pitiful saving of 20,000*l.* is to be effected, and this in a time of great prosperity, when peace has added to our resources, and an abundant and springing capital would supply without difficulty, without imputation, without reproach, what our exigency requires, shall we not be surprised at such a pertinacious adherence to this measure? The pride of the individual will sometimes engage him in a fatal obstinacy; but let not this House be infected by such a narrow principle, and let it depart from its conduct when it must be convinced of the injustice and impolicy of that conduct. It was not without much indignation, that he felt himself warranted in remarking that, upon all occasions, when rights were invaded, a cringing and a fawning policy was substituted for a manly behaviour. Application was to be made to the minister, his forbearance was to be solicited, the justice of the House was not to be appealed to; yet, for his own part, he could sincerely affirm, that he disdained to be influenced by any of these considerations, when they were not urged with unexceptionable propriety. It was his inflexible determination to persevere in the most zealous and unbiassed endeavours to fulfil his parliamentary and political duties; and he anxiously hoped, that not only upon the present, but upon all other occasions, the House would be actuated by the same sentiments, and govern their proceedings accordingly.

Mr. *Pitt* rose and declared, that what he should say would not be much, as he conceived the whole of the business did not lie in a very wide compass, but he wished to be correctly understood. He began with observing, that it had been asserted that there had been some degree of confusion in the view of the subject, both within doors and without. What had led to the confusion, he said, must have been the mistaking his meaning, and supposing that he had stated the unclaimed dividends as the fund from which he proposed to take the 500,000*l.* instead of the floating balance. He appealed to the recollection of every gentleman present, when he had originally opened the measure, whether he had not then with caution, and in express terms stated, that it was not from the unclaimed dividends (if by unclaimed dividends was understood those never likely to be claimed), but from what constituted the floating balance of cash in the bank, or issues not called for, which lay there to the amount of 700,000*l.* and upwards, according to the last statement, totally useless to the public, and all pretensions to the use of which, on their part, the bank directors had in the most direct terms disclaimed that he proposed to appropriate 500,000*l.* to the public service. That was his intention, and he did not despair of being able to satisfy the House, that the measure was not in the smallest degree liable to shake the public credit, or to affect either the interest of the bank, or of the public creditor in the slightest manner.—After an exordium to this purport, Mr. Pitt proceeded to reply to the arguments of Mr. Fox. In one part of his speech, the right hon. gentleman had confounded the bank with the public creditor; and in another, when he was desirous of maintaining the right of the bank to make use of the money, he appeared altogether to have forgotten the interest of the public creditor. With regard to the bank having a right to make use of the money, let it be remembered, that the money originally came from the purse of the public, that it was deposited in the

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bank still called for by those who alone had a fair claim to it, and that the public paid a large sum annually to the bank (no less than 100,000*l.*), for the trouble, expense, &c. of transacting the business; he desired to know, therefore, why the bank were to make a benefit of what belonged to the public creditor? He thought that they had no right whatever to such a pretension: but that consideration laid aside, and he could not admit it had the least ground to stand upon, he did not desire any man to vote with him in favour of the bill, unless he could prove these three distinct propositions: first, that the bill would not interfere with the contract between the public and the public creditors, since, if the whole 500,000*l.* were to be demanded of the bank in one day, which was not very probable (as he believed the hon. gentlemen, who were bank directors, would agree with him that the payment of the whole sum in a day would be an operation to which the bank would be unequal); but still if it were possible for the whole of the arrears to be claimed in the same day, that the money should be forthcoming; next, that the bill was supported not only by one or two, but by numberless precedents; and thirdly, that if the consent of the public creditors were required, that consent had been given in the present case as fully as in any case whatsoever, where their interest could be involved. He flattered himself he should be able to make out these propositions without trespassing upon more than a moderate portion of the time of the House. He began to do so by stating, that for several years past, upon a minute examination of the balances of the several quarters, it would be found, that the balance upon each quarter had been in a state of gradual and uniform accumulation, which was at least a circumstance not very discouraging to the probable success of the present measure; and as it was proposed never to leave a less sum than that of 100,000*l.* of floating balance in the hands of the bank, over and above what was likely to be demanded in the course of the current payments, there was not the smallest occasion to apprehend that the bank or the public creditor would sustain the least inconvenience: but, as he had before stated, if the whole 500,000*l.*, nay, if all the arrears should be demanded in one day, the provisions of the bill were sufficient to meet that very extraordinary, and, indeed, almost impossible case. In order to explain this, Mr. Pitt said, that whenever the bank found that they had a less sum than 100,000*l.* balance in their hands of floating cash to pay the dividends, or annuities to the public creditors, or whenever any claims should be made on them that would reduce the balance to a less sum than 100,000*l.* the governor and company, or their cashier, were to transmit a certificate of the same to the lords of the treasury, and to the auditors of the exchequer, and that on the same day, without any other notice than that prescribed by the bill, the auditors should make out a debenture, directing the payment of such sums, as by the same certificate should appear to be necessary to make up the balance to the full sum of 100,000*l.* the payment to be made at the exchequer, out of the aids and supplies granted for the service of the current year, or any preceding year, or any monies arising from the surplus of the consolidated fund. There hardly could be a case, when there would not remain in the exchequer a larger sum arising from the aids and supplies than 500,000*l.* Indeed, the only instance for many years past that had occurred, when the money in the exchequer received on account of the aids and supplies did not quite amount to 500,000*l.* had been in the year 1789, and then for two weeks only; and the House would recollect, that on account of his majesty's illness no supplies had been voted that year by the House before the month of April. But even supposing, which was scarcely credible, that it ever should happen that there should not be 500,000*l.* in the exchequer, by the bill, a provision was made for that circumstance. By one of the clauses, a power was given to the commissioners of the treasury to issue, at whatever interest they thought proper, exchequer bills, equalling in amount any possible deficieney at the exchequer, to answer the deficiency of floating balance or demand that might be made upon the bank by the public creditor. Thus, as the condition with the public creditor stated the time when, the place where, and the manner in which, he should be paid his interest or annuity, viz. at the bank, on the day he demanded it, and in cash; so the bill provided that every part of the condition should be strictly complied with. Could there, then, be a doubt, under all these circumstances, that the dividend money would be forthcoming for every creditor of the country, as

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whatever day he might call for it, payable at the same hour, in the same manner, and at the same place, as heretofore? Was, then, the substance of the contract broken as to the public creditor? It was, in truth, the form only that was violated, or rather that was varied. The money would not be lying in the bank indeed, but it would be yielding an interest to government and this, perhaps, would be as satisfactory a consideration to the body of public creditors, as if it were merely adding to the profits of the bank of England. The right hon. gentleman had said, that the bank security was a better security even than that of government, and yet he confessed that the bank traded with the money in their capacity of bankers, not reserving it by any means as idle and ready cash, any more than the government themselves would do: how, then, could the bank security be at all superior? and how could it be supposed that their funds, and their ultimate resources, could be greater than the security now to be given, of all the funds of England, and the whole property of the country? It had been remarked also, that the bank were to remain a corporation for the purpose of paying the dividends, even though their charter, as a banking and a monied company, should expire. Now, therefore, in this case, which was stated as possible to happen, it was absurd in the highest degree to talk of the security of the bank of England as preferable to the security of government; for they might then, on the one hand, not have directors that were respectable like the present; and, on the other, the company's responsibility, in point of wealth, would, in this case, certainly be reduced to nothing. It should be remembered also, that the public creditors, who are supposed to be so unwilling to trust government with the temporary sum of 500,000*l.* in truth, already trust them for the whole amount of their annual dividends, which was above eight millions a-year.—With regard to the time when the money should be paid into the exchequer by the bank, he intended, in the committee, to propose that it should be in three months; so that any one, who disliked being within the provisions of the bill, might have the power in himself of repealing it in a manner, by withdrawing himself from the operation of it. At the expiration of those three months, if the payment of the whole sum would leave the bank too low, it would be provided that they should pay as much as they could, without infringing on the 100,000*l.* that was meant to be kept for the purpose of satisfying any demands that might be made on them for dividends. The bill, therefore, did fairly allow any one to dissent that pleased: and as to any future arrears that might arise, the same observation would apply; for the whole amount of the dividends would be always issued quarterly, just as heretofore, and would remain in the bank during the next three months; so that any future proprietor, by receiving his dividend within three months after it was due, would equally take himself out of the operation of the present act, if he was disposed to do it.—By the bill it was provided that, in case of any demand, by a certificate from the bank of the sum wanted, a debenture should be signed, and given by the auditor of the exchequer, a business that could be transacted in three minutes; and this debenture being carried to one of the tellers of the exchequer, was a sufficient warrant to draw out all the money in the consolidated fund. In this manner the grand objections must immediately give way. The issues since the time of king William had been regularly made from the exchequer, in the ordinary course of payment. Of these it appeared that considerable sums had never been demanded. Though the public did not claim these sums as its own, yet it required the temporary use of them, giving all the revenues and property of the kingdom as security, while the bank was still made the vehicle of its payments: and special provisions were made not only for practical probabilities, but also that in no possible situation the payment of the whole sum, if required, should be delayed one moment. The whole would be found a security and convenience to the creditors, instead of any disadvantage, and steered very widely of all difficulties raised by the extravagant suppositions of those who were hostile to the measure. He asked, whether any one could suggest, in the utmost extravagance of supposition, that all these demands should be made in one day. If they should, provision was made for their payment: but he fancied, should such a circumstance occur to-morrow, the bank would find it impracticable to go through the mechanical process of paying all the money in the same day.

After noticing the stress that Mr. Fox had laid on the right that the bank, acting

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as a great banker, had to make use of the money left in their hands, Mr. Pitt said, perhaps it would be full as satisfactory to the public creditors that the whole of the money should be forthcoming whenever it was asked for, as that the cash should remain in the hands of the bankers: and he asked, if their making use of that cash for their own benefit could be as good security for its forthcoming as the means provided by the bill? The right hon. gentleman had said, that altering the nature of the security was contrary to the terms of the contract, and a violation of public faith. He would, in answer to that, maintain, that it was no infringement upon the contract, no violation of public faith; and that, to deny themselves the power of varying and altering the security to the public creditor, would be to abandon one of the most important of the privileges and duties of parliament. The right hon. gentleman had alluded to precedent, and had declared a very contemptuous opinion of resting upon such grounds. For his part, he was as little fond of precedent as the right hon. gentleman, unless the precedents were directly in point; but the right hon. gentleman had slightly alluded to one or two, viz. to the old bankers fund case in George 1st's time, and to that of the life annuities in 1778; but he had declared that those cases had this marked difference from the present, viz. that they were brought forward on the express grounds that the monies then taken, and appropriated to the public service, were never likely to be claimed. In fact, it could not positively be asserted that no claims would ever be made in either of those cases, but there were innumerable precedents besides, parallel to the case immediately before the House. What was the case in the repeal of a tax? They all knew that when taxes were found inconvenient or deemed oppressive and inadequate to their object, the House proceeded to repeal them, without ever calling upon the public creditor for his consent, or any opinion being entertained, that they were breaking the terms of the contract with the public creditor, or violating public faith. He would ask the right hon. gentleman, would he, or would any man, pretend that the repeal of the shop-tax (to take a familiar instance) was an act of bankruptcy? And yet, to make out the right hon. gentleman's argument, he must go that length. There were repeated cases in which parliament had altered the nature of the security to the public creditor; nay, there were even cases in which they had altered the interest, without consulting the public creditor. He instanced the consolidation act, by which a great variety of duties, all originally imposed as a security for particular loans, had been changed, and thrown into one mass of consolidated fund.

After forcibly urging this, and other arguments, in proof of the practice of altering the security to the public creditor, he proceeded to show, that the consent of the public creditor had been fully given to the present measure. He reminded the House, that he had opened the subject of the bill before Christmas, and that now it had been some months before the public, and so little alarm had been taken, that the stocks had been more or less upon the rise ever since, therefore the consent of the public creditor might be implied, in the case of those who did not express their dissent, in the only possible way of manifesting it, viz. by coming forward with their claims, and taking their money before the bill came into the House. This afforded pretty strong evidence, that all the weighty people of London were not of the right hon. gentleman's opinion, notwithstanding his superior means of information, upon which he had laid so much stress. But Mr. Pitt added, it was still time enough for those public creditors, who did not like the substituted security, to take the present security, because the bill provided that there should always be 100,000*l.* in the bank, exclusive of the sums issued on account of the dividends due the quarter then next preceding, At all times, therefore, the public creditor would have three months to take his money in. The right hon. gentleman had said, that there might be minors, and persons liable to other legal disabilities, who could not consequently act for themselves. Undoubtedly there might; but was not that the case on every other occasion of a similar nature? He rested himself on the general justice of the proceeding, and the certainty that no injury whatever could result to any one, although material convenience would be derived to the public. Many persons abroad, and at a distance, were public creditors: but it was customary with them to leave or send letters of attorney here to their agents to receive their dividends; and if their agents were

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vigilant, they might receive their dividends speedily. Foreigners, many of whom were stock-holders, had their agents in London, as they had that day witnessed by the letter which had been heard read from ten very respectable houses, the names of which were subscribed; and if any set of people could be mentioned, as not likely to suffer by any change of the public security, it was those whose agents were in the uniform habit of receiving the dividends of their principals as soon as they were payable.

Having gone through this part of the argument, Mr. Pitt said, that whether the 500,000*l.* was suffered to lie useless in the bank, or was to be applied to the public service, ample security being given for its being forth-coming on the very day that it should be demanded, he was at a loss to distinguish the principle of the right hon. gentleman's argument, by which he contended for one of the two, and condemned the other. There might be nominally a difference, but, in fact, it was the same thing as to the public creditor. He adverted to that part of Mr. Fox's speech, in which he had expressed his surprise, that, for so small an object, ministers should venture so large a risk. The right hon. gentleman had said, he did not mean to insinuate any bad motives as imputable to them: he had, nevertheless, insinuated something not very unlike bad motives, when he had declared, that he conceived the present measure was insisted on with a view to engraft some measure still more violent and alarming on it hereafter. If the right hon. gentleman really thought the object in the present instance trifling, he was bound to give those who, from their situations and their characters, were as deeply interested in, and as likely to stand up for, the preservation of the public faith, as any other description of persons, credit for the sincerity of their declarations, when they said, they believed the present measure to be free from all the objections that had been stated against it, either by the right hon. gentleman, or any of his friends. He admitted, however, that not only 500,000*l.*, but that ten times that sum would be nothing in the balance of consideration, if they were making a breach of public faith, or, in fact, doing any injury whatever to the public creditor; but if it were not so, and the measure could be justified upon fair grounds, he must continue to assert, that 500,000*l.* was a material object to the public, and would relieve the country from the necessity of an additional burthen of taxes. Having put this very pointedly, Mr. Pitt said, the right hon. gentleman had argued the subject in so many different lights, that he could not pretend to follow him; but he was sure, that however the right hon. gentleman might then be inclined to contend against the bill, in his more candid moments, he would allow that it was not open to the objections that he had stated; at any rate, Mr. Pitt declared, he was firmly of opinion, that it was no violation of public credit, and on that ground, he should give his vote for the motion.

Mr. *Windham* declared, he could not think the right hon. gentleman had made out his own position, and proved that the bill was not a breach of the contract with the public creditor. With regard to the right of the bank to the usufruct of the money belonging to the public creditor, in his judgment, the bank had the best of all possible rights, namely, the permission of the owners, who, by letting their money remain in the bank uncalled for, plainly gave them a right to turn it to their own advantage till it should be called for. He contended, that every creditor had a right to be guided by his own whim and fancy, and, therefore, that the legislature were not entitled to interfere upon the subject. With regard to the terms of the contract between the public and its creditors, he had always conceived it usual to treat bargains of that sort as they found them, and not for one of the parties to assume a power of altering the conditions, just as suited their own convenience, and without the consent of the other party. Sure he was, that in all private bargains the case was so, and that so monstrous a circumstance as a proceeding like the present would never be allowed to be either fair or at all warrantable. He had ever understood, that there was something more solemn and sacred in a bargain between the public on the one hand, and individuals on the other, than in any private bargain whatever. In the present case, there was no parity of situation between the parties contracting; it was, in fact, a contract between weakness and power; and therefore it depended on the good faith of the stronger party, just the same as was the case with debts of honour, which he had always conceived to stand upon that ground, and that mankind with common consent held them-

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selves more strictly bound to keep their faith, than even in contracts of a more worthy nature, because they knew that the only security was good faith. He combated that part of Mr. Pitt's argument which went to the situation of the public creditor in consequence of the alteration of the security, and which stated, that the bill left him at liberty to debate whether the terms offered by it were better or worse than those upon which the bargain originally stood. This was a mode of argument which he deprecated, because it proceeded on the ground that one of two contracting parties might assume the right of judging for the other, whether an alteration in the terms of the contract was for his interest or against it. The principle of confidence was, that no alterations in the terms of an agreement could be made but by the consent of parties; and that public credit might be shaken, was not only to be fairly presumed from the very face of the measure, but supported by the testimony of those whose testimony ought to be of the greatest weight. Precedents on such a subject were of no avail, and ought only to put the House on their guard against adding to the number of them, impressing strongly on their minds the use that might be made of them.—The argument derived from the substitution of one tax for another, did not apply, because it was always known that taxes might be repealed. They were never taken as the security for the interest of the loan; for it was universally understood, that if deficient, the deficiency must be made good, and if they failed entirely, that other means of satisfying the public creditor must be found. It was true that those who did not approve of the bill might withdraw their dividends; but that in itself was a hardship, and might, in many cases, be attended with inconvenience and expense. Besides, if there were persons who thought the security now offered the next best security to that which they had before, on what principle of justice were they to be deprived of what they thought the best, and left only the option of the next best to it, or a worse than that? He said it was not the possible loss they might sustain in consequence of the change of the security, but the general influence that would result from altering the conditions of a bargain once concluded, that constituted the argument. As to the public creditors power of withdrawing from the danger of any loss, he said, by the bill they were forced either to take their money, or they must suffer the consequences, be they what they might; therefore they were not left in the same situation as before. The bill put him in mind of a practice among ancient critics and authors, who, the better to ascertain the effect of their writings, would ask themselves how such a passage would have appeared had it come from such or such a writer. In imitation of that practice, he would leave gentlemen to consider how the measure then before them would have appeared, had it come from the side of the House on which he stood. The right hon. gentleman he was sure, would have come down, and treated it with all that indignation which he was so capable of assuming when it would answer his purpose. The alarm would have been carried instantly from the House to the city, from the city to the court, from the court to the palace, and from the palace it would have spread throughout the kingdom.

Alderman *Le Mesurier* rose to mention what he conceived was the opinion of the city of London respecting the bill. He said he was himself a stock-holder, and the agent of many stock-holders abroad, who were, like himself, perfectly satisfied with the measure, as the security substituted, apppeared to them to be full as good, if not better, than the security already given. He said, the bank neither was, nor ought to be, trustees for the public. They did not issue out the money to pay the dividends; but the lords of the treasury issued it to the bank for the sole purpose of their paying the dividends, and not as had been contended, for their own use. The bank proprietors, he said, were in no respect parties; and had the stock-holders been fairly convened, and asked whether they thought the measure injurious to their interests, he was convinced, they would have answered, that they did not. The alderman concluded with again disclaiming the doctrine that the bank were trustees, and declared it was a dangerous doctrine.

Mr. *Gregor* stated, that he had received accounts from his relative, Mr. Hope of Amsterdam, and several other merchants in Holland, mentioning, that so far from thinking there was any danger in the measure to the public credit of the nation, they decidedly approved of it.

Mr. *Francis* said, that if the observa-

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tions which had fallen from the worthy alderman had not come from a gentleman engaged in commercial concerns, he should have believed it impossible for any person, holding such arguments, to be at all acquainted with the subject. If there was any principle between two parties who had entered into a contract, it was, that no such contract should be dissolved without the consent of both the contracting parties. If a creditor had lodged his fortune for peculiar purposes in the bank, he thought it a violation of every principle of justice to remove it, as the creditor's partiality prompted him to prefer such security, rather than avail himself of the advantage of compound interest, which would be the result of placing his property in other hands. The right hon. gentleman had instanced the repeal of the shop-tax as a case in point. But it was not so by any means. The right hon. gentleman had not, in that case, left the public with merely as good a security, but he had taken all parliament for his security, the legislature being bound to compensate for the sum given up by that tax being repealed, by the means of some other tax. The right hon. gentleman had said, in the present case, that he had the consent of all parties. But there was one party, the consent of which the right hon gentleman had not obtained, and whose consent could not be had; he meant the consent of the dead. Many an individual had bequeathed his fortune to an infant child, the interest to be paid at a particular time and place, viz. the bank of England. Would that House alter the testator's will, and render it null and void? The constitution gave them no such power.

Mr. *Grosvenor* said, that the question in the present case, was not so much the justice and equity of the measure (for both were undeniable) as its prudence. He professed himself a friend to the bill.

The House divided on the motion, that the bill be committed: Yeas, 191; Noes, 83.

END OF VOL. XXVIII.

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